

FACTSHEET

TITLE: CHANGE OF ZONE NO. 05026, APPLE'S WAY PLANNED UNIT DEVELOPMENT, requested by Apple's Way, LLC and Uno Properties, for a change of zone from AG Agricultural District to R-1 Residential District and B-2 Planned Neighborhood Business District on property generally located at S. 66th Street and Highway 2; for a PUD District designation; and for approval of a development plan which proposes a waiver of the required preliminary plat process and allows approximately 32 dwelling units in the underlying R-1 district and approximately 235,000 square feet of commercial floor area in the underlying B-2 district.

ASSOCIATED REQUEST: Comprehensive Plan Amendment No. 04010 (05R-110).

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 04/13/05, 04/27/05 and 05/11/05
Administrative Action: 05/11/05

RECOMMENDATION: Denial (5-4: Carroll, Pearson, Krieser, Carlson and Taylor voting 'yes'; Marvin, Sunderman, Larson and Bills-Strand voting 'no').

STAFF RECOMMENDATION: Denial.

1. This proposed Planned Unit Development was heard before the Planning Commission in conjunction with the associated Comprehensive Plan Amendment No. 04010, Bill #05R-110.
2. The associated Comprehensive Plan Amendment proposes a change from Urban Residential to Commercial on the western 39 acres of the 62-acre site. The remaining 23 acres are to retain the current residential designation. This Planned Unit Development proposes approximately 235,000 sq. ft. of commercial floor area, including a 138,000 sq. ft. "big box" store.
3. The staff recommendation of **denial** is based upon the "Analysis" as set forth on p.5-7, concluding that the PUD would generate traffic which warrants a traffic signal on Hwy 2 and contributes to an increase in delays and congestion at the nearby major intersections along the Hwy 2 corridor. The proposed development would further degrade the transportation system in an area already known to be problematic, and encourage similar requests by other property owners along the corridor. It will also introduce several times more cut-through traffic on S. 66th Street in Country Meadows in comparison to a residential development.
4. This proposal had three public hearings before the Planning Commission, being held over twice, once at the request of the applicant to work with the neighborhood and once at the direction of the Planning Commission to come back with the results of a vote taken by the neighborhood. The record consists of a letter from Robert Otte on behalf of the Country Meadows Homeowners Association dated 5/11/05, which sets forth the results of the neighborhood vote (p.65-66).
5. The applicant's testimony is found on p.13-18; 23-24; and 26-27. There was no testimony in support; however, the record consists of six letters in support (p.68-75). The additional information submitted by the applicant is found on p.52-64, including a memorandum regarding trip generation from the applicant's traffic engineer (p.52); letters in support from West Gate Bank and the Lincoln Trade Center Owners Association (p.53-54); correspondence from the President of Country Meadows Homeowners Association taking a neutral position (p.55); "draft" commitment between the applicant and Country Meadows Neighborhood (p.56-58); and proposed amendments to the conditions of approval (p.60-64).
6. Testimony in opposition is found on p.18-20 and 24-26, and the record consists of 11 letters in opposition (p.76-90).
7. After the continued public hearing on 4/27/05, the Director of Planning, at the request of Commissioner Carlson, submitted additional staff comments (p.46-47), and the applicant's response was submitted on 05/11/05 (p.48-51).
8. On 5/11/05, a motion to deny failed 4-5 (Carroll, Krieser, Carlson and Taylor voting 'yes'; Pearson, Marvin, Sunderman, Larson and Bills-Strand voting 'no'). Upon a motion for approval, with the amendments requested by the applicant, Commissioner Pearson's motion to amend to limit the commercial and office floor area to no single building footprint exceeding 90,000 sq. ft., failed 1-8. A motion to amend Condition #1.1.11 made by Carroll to replace the proposed restricted access gate with a one-way street, a round-about or other traffic calming device carried 9-0. However, the main motion for approval, with conditions, as amended, failed 4-5 (Marvin, Sunderman, Larson and Bills-Strand voting 'yes'; Carroll, Pearson, Krieser, Carlson and Taylor voting 'no').
10. Therefore, on 5/11/05, the majority of the Planning Commission agreed with the staff recommendation and voted 5-4 to recommend **denial** (Carroll, Pearson, Krieser, Carlson and Taylor voting 'yes'; Marvin, Sunderman, Larson and Bills-Strand voting 'no'). Commissioner Pearson changed her vote because her motion to limit the amount of floor area per single unit to 90,000 square feet failed.

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for February 16, 2005 PLANNING COMMISSION MEETING

P.A.S.: Change of Zone #05026 Apple's Way PUD

PROPOSAL: Change the zoning designation from AG to R-1 and B-2 PUD, and approve a development plan for 32 dwelling units and 235,000 square feet of commercial floor area.

LOCATION: South 66th Street and Highway 2

LAND AREA: Approximately 61.7 acres.

WAIVERS:
1. Preliminary plat process.

CONCLUSION: The land use plan of the Comprehensive Plan designates urban residential uses for this site. Staff is recommending denial of the associated comprehensive plan amendment (CPA#04010) to change the designation to commercial for the west 39 acres of the site, and does not support development of this site to a level that warrants a traffic signal on Highway 2. As presented, this request would generate traffic which warrants a traffic signal on Highway 2 and contribute to an increase in delays and congestion at the nearby major intersections along the Highway 2 corridor. The proposed development would further degrade the transportation system in an area already known to be problematic, and encourage similar requests by other property owners along the corridor. It will also introduce several times more cut-through traffic on South 66th Street in Country Meadows in comparison to a residential development.

<u>RECOMMENDATION:</u>
R-1, B-2 PUD
Waivers
1. Preliminary plat process.

Denial

Denial

GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached legal descriptions.

EXISTING LAND USE AND ZONING: Vacant AG Agricultural

SURROUNDING LAND USE AND ZONING:

North:	Bank, Residential	AGR, O-3
South:	Vacant, Residential	AGR, R-1
East:	Residential	AGR, R-1
West:	Commercial	H-4

ASSOCIATED APPLICATIONS: CPA#04010 - A request to amend the Comprehensive Plan to change the land use designation from residential to commercial for the west 39 acres of this site.

HISTORY: April 28, 2004 - CPA#04010 to change the land use designation on this site from urban residential to commercial for the entire site was placed on hold by the applicant. This request has since been modified to change the land use designation from residential to commercial for only the west 39 acres of this site.

July 14, 2003 - CPA#03012 to change the land use designation on this site from urban residential to open space and commercial was withdrawn. It had received a 6-0 vote for denial from the Planning Commission.

March 26, 2001 - A request to include a change in the land use designation from urban residential to commercial for this site was considered but not adopted as part of the Southeast Lincoln/Highway 2 Subarea Plan.

May 2, 1994 - CZ#2085 was denied by City Council to change the zoning of this property from AGR to R-3 and B-5.

May 8, 1979 - The zoning was changed from AA Rural and Public Use to AGR Agriculture Residential with the 1979 Zoning Update.

COMPREHENSIVE PLAN SPECIFICATIONS:

Page F23 - This site is designated as urban residential land use in the Land Use Plan.

Page F27 - Urban Growth Tiers - This site is within the City's Future Service Limit.

Page 105 - Lincoln Area Street and Roadway Improvements 2025 - Designates that portion of Highway 2 from South 56th Street to South 120th Street for 'Corridor Protection'.

Page 111 - Nebraska Highway 2 Corridor Protection - The roadway within the corridor could be further improved or the corridor could serve as a multi-modal or multi-use area in the future. Corridor preservation should include retention of all property within the State's present right of way area, denial of any additional access points to the roadway, elimination of existing access points should such opportunities arise, and the acquisition of additional right of way should it become available.

Page F156 - Subarea Planning - By reference the Southeast Lincoln/Highway 2 Subarea Plan is included in the Comprehensive Plan.

Southeast Lincoln/Highway 2 Subarea Plan:

Executive Summary - There has been significant effort spent over the past several years to study the transportation impact of commercial development in this area. This subarea plan provides for approximately 2.3 million square feet of additional space. That is more than double the amount of space in Gateway Mall and is in addition to the existing 1.4 million SF in the vicinity of Edgewood. Proposals to substantially increase this amount of commercial space may argue that more commercial sites can be developed without any traffic impact on the transportation network. While the transportation impact will continue to be reviewed, it is well established that as commercial space increases there will be an impact on the road network. One of the most important actions a community can take to address concerns about traffic congestion is to make wise land use decisions in advance of development.

Page 6 - Provide Effective Land Use Transitions - Provide appropriate transitions from commercial to residential land uses. Within commercial areas, office and lower intensity commercial uses along with appropriate buffer areas should be developed as a transition to adjacent residential areas. In some areas, special residential” uses should be provided to adjacent lower density residential uses. Special residential uses could include churches, domiciliary care facilities, retirement apartments, child care facilities or townhomes. In more urban settings, which are further from existing single family residences, apartments may also be appropriate as a special residential uses.

Page 8 - Designates urban residential land use with the “SR” (Special Residential) designation for the northwest corner of the site.

Page 9 - Efficient use of transportation network - Land use decisions must consider the impacts upon the transportation network. The proposed uses are scaled to the capacity of Highway 2 and 84th Street and to retain the community’s desired Level of Service C. Highway 2 is not only used by local residents, it also serves the community and region.

- Promote a Desirable Entryway - Standards for landscaping and architecture should be developed to promote a desirable entryway into Lincoln along Highway 2 — however, standards alone will have little impact if land use decisions strip the area with commercial uses, signs and cause the widening of Highway 2 to six lanes. It will be difficult to have enough landscaping to reduce the visual impact of potentially 9 or 10 traffic lanes (6 through, dual left and right turn lanes.) An open space corridor (approximately 200 feet from centerline) is shown along Highway 2, adjacent to the new commercial uses, as one part of having a desirable entryway with commercial development.

- Retention of Low Density Residential Character: the character of this area today is predominately low density residential. The Comprehensive Plan encourages preserving and respecting the character of the existing neighborhoods. The impact on existing areas should be a priority in all land use and transportation decisions in this area. The low density residential designation is kept on existing neighborhoods. In addition, the property on the southwest corner of 84th & Highway 2 should remain low density residential. It does not have a safe access point to either Highway 2 or 84th Street. This site is fully integrated into the land use and road pattern of the surrounding neighborhoods and due to the features of the site can be developed residentially.

- Changes from Low Density to Urban Residential - Several vacant properties along Highway 2 are appropriate for urban residential. Development of residential is possible along Highway 2 and will retain the residential character of the area. Several of these properties have existing topography and trees which help screen the property from the highway while others may require additional screening. These properties are key to the overall vision for the area. Commercial development on these properties could have significant transportation impacts, such as necessitating six lanes on both Highway 2 and 84th Street, and could impact existing residential uses. The impact on the traffic network of strip commercial may also impact the mobility of existing residents and a visual impact on the entryway into the community.

Page 10 - Commercial transition - Within commercial areas, office and lower intensity uses along with appropriate buffer areas should be developed as a transition to adjacent residential uses.

Page 13 - Entryway Corridor - To preserve the entryway corridor, the land use and transportation decisions are equally important as landscaping or architectural standards.

UTILITIES: The site can be served by municipal water and sanitary sewer.

TOPOGRAPHY: There is a hill along the west edge of the site, with small drainage ways on either side of it flowing from northeast to southwest.

TRAFFIC ANALYSIS: Highway 2 is considered a principal arterial in this area, and from South 56th Street to South 120th Street it is a protected corridor. The site plan shows a connection to South 66th Street which is a local street extending from Highway 2 to Pine Lake Road, and provides the Country Meadows subdivision with access to both Highway and Pine Lake Road. The Land Use Plan designates this site for urban residential uses in part to limit the amount of additional traffic

in the area and reduce the need for another traffic signal in Highway 2. Changes in the land use designation for this site have previously been opposed due to the adverse impact that additional traffic associated with more intensive uses would have on the transportation system in the area.

ALTERNATE USES: A change of zone to R-1 is more appropriate than the current AGR, and would allow more efficient use of the land. The request could be modified to extend R-1 over the entire site or otherwise be developed residentially consistent with the Comprehensive Plan.

ANALYSIS:

1. The associated request CPA#04010 proposes a commercial designation for 39 acres of this site. The PUD assumes approval of the amendment and shows 39 acres of commercial in B-2. Staff is recommending denial of both the comprehensive plan amendment and the PUD, and objects to the proposed B-2 zoning due to impacts upon the transportation system in the area. The recommendation is for denial; however, the PUD was reviewed and the following analysis is included to establish the basis for the conditions that follow should the City Council choose to approve these requests.
2. This is a request for an R-1, B-2 PUD over a 62 acre site. The site plan proposes a change of zone to R-1 for the east 22 acres, creating 32 - approximately one-half acre lots. The west 39 acres is shown as B-2, and proposes approximately 235,000 square feet of commercial floor area. A 138,000 square foot 'big box' assumed in the traffic study to be a home improvement superstore with an outdoor garden area is shown in the B-2 as part of the total proposed commercial floor area. The remaining commercial floor area is distributed among specialty retail, an auto parts store, high-turnover and sit-down restaurants, and a drive-thru bank.
3. The intent of the recent revisions to the PUD ordinance were to allow a creative mix of land uses within the same development but under a single zoning district. This request could be presented as a separate use permit for the B-2 and a separate community unit plan (CUP) for the residential based upon the zoning scheme plan proposed. There is no mixing of land uses, and the inherent flexibility of a PUD does not appear to be needed.
4. A development plan is a required part of a PUD and can propose adjustments to the area, height, sign, parking, landscaping, screening, traffic access and setback regulations to tailor them to suit the development. The plan can take different forms, and the conventional method would be to propose a set of adjustments to the regulations that are unique to the development, attached to a generalized plan that includes only basic information such as the street layout and identifies land use 'nodes'. The approach taken with this plan is different in that a fairly specific site plan has been proposed and no adjustments are being requested.
5. The site plan for the B-2 shows restaurant and other identified uses adjacent to the R-1. The uses in this area should be transitional and provide a buffer between the more intensive commercial uses and the residential. The restaurants and similar high-traffic uses do not provide this buffer. The buffer should also include a minimum 50' setback from the residential boundary to any buildings or parking in the B-2. The development plan for the B-2 should be revised to identify areas for generalized land uses, showing no more than 50,000 square feet of office floor area between South 63rd Street and the R-1, and no more than 185,000 square feet of commercial floor area west of South 63rd Street, not exceeding a total of 235,000 square feet overall. Adjustments to allow office floor area to be reallocated and used as commercial floor area west of South 63rd Street may be approved administratively.

6. The orientation of the 'big box' store should be reversed and show the lawn and garden center at the south end of the building. The Home Depot at South 70th and Highway 2 has located their outdoor lawn and garden center at the north end of the building and it does not enhance the Highway 2 corridor. The lawn and garden center should be moved to the south end of the building to help screen it from the highway.
7. Landscaping is not shown. Screening is required by Design Standards between the B-2 and R-1, for the residential lots adjacent to Highway 2, and around all buildings in the B-2. Additionally, street trees are required along all public and private streets, and along Highway 2.
8. Sidewalks are not shown, however a good internal and external pedestrian system for the commercial center should be provided. Sidewalks must be shown along both sides of all streets, and sidewalk connections which provide access to the front door of each commercial building should also be provided. The sidewalks along South 63rd Street will provide a pedestrian connection to the parkland southeast of the site.
9. Highway 2 adjacent to this site is designated for corridor protection, and should be treated similar to other commercial developments along the highway that have been approved since the designation was adopted. This includes Appian Way (north and South), Pine Lake Plaza, and Willowbrook. All these developments have maintained a green space corridor along the highway by including a 175' setback to parking areas (including driveways), and a 200' setback to buildings as measured from the centerline of the highway (setbacks are approximate and vary with right-of-width). The building and parking areas are setback some distance, but the actual distance from the centerline of Highway 2 is not shown. A 175' setback to parking and a 200' setback to buildings for the B-2 should also be shown on the plan.
10. The proposed PUD does not specifically address signs, and does not request any adjustments to the sign regulations. Pole signs are allowed in the B-2 district, but are not compatible with the corridor protection applied to Highway in this area. Pole signs should be prohibited as part of this PUD.
11. Significant grading is required in the area of the 'big box' store, but a grading plan has not been provided. Staff will need to review the site grading and drainage plans to evaluate the impact upon both this site and adjacent properties. The plans must be submitted for review and approval prior to issuance of any building permits.
12. The intersection of the private roadway and South 66th Street must be moved south. Outlot A of Country Meadows 4th Addition included an easement previously granted to accommodate a street through it, so the private roadway must be moved south to align with it. This will provide room for adequate vehicle stacking on South 66th Street at the intersection with Highway 2.
13. Outlot F, Country Meadows Addition was also created to provide for a future street extending to the south edge of this site. The logical connection would be provided by removing the south cul-de-sac and then extending the street to the south boundary. However, it is unlikely that the Country Meadows Homeowners Association will ever build their portion of the street in Outlot F, and so a requirement to make the connection is not practical. It should be that without a

connection in this area, the block length exceeds the maximum allowed. If the block length is not reduced, a waiver is required and must be included in a new legal notice and be presented at a later Planning Commission hearing.

14. Previous discussions concerning the development of this site included plans to extend South 63rd Street to South 56th Street along the south edge of the Trade Center. That street extension is no longer shown as part of this project, however the possibility for making a future connection should not be precluded by this project. The detention cell at the southwest corner of the site should be reconfigured to not preclude the extension of South 63rd Street.
15. The site plan shows a median opening in Highway 2 and a traffic signal at South 63rd Street, and Public Works has previously stated they are opposed to both. However if this project is approved, both will be needed.
16. A 'restricted access gate' is shown in the private roadway at the boundary of the R- and B-2. The applicant notes that it "is intended to permit westbound traffic to enter the commercial portion.....and is designed to restrict the commercial traffic from entering the residential portion and ultimately the County Meadows subdivision." Staff does not support gated streets because they diminish public safety by serving as impediments to emergency responders, and they are contrary to the goal of providing connectivity among neighborhoods. Access cannot be restricted to a roadway over which a public access easement has been granted.
17. The lot arrangement surrounding the north cul-de-sac is inefficient and results in irregularly shaped lots and undesirable home sites. The cul-de-sac should be moved east and the lots redesigned to provide more suitable home sites. Additionally, as drawn several lots exceed the lot width to depth ratio, however a specific adjustment was not request to allow it. The lot to depth ratio for all lots should be verified, and the plan should either be redrawn or an adjustment requested. Adjustments would require a new legal notice and must be presented at a later Planning Commission hearing.
18. Those areas surrounding the ponds/open green spaces should be designated as outlots.
19. Street names must be provided. Additionally, South 63rd Street should be named and not numbered as it is not a north-south street.
20. Several minor revisions are required to the General Site Notes on Sheet 1 of 2.
21. The Parks and Recreation Department notes that Pine Lake Park serves as the neighborhood park for this area, and that impact fees will be collected in lieu of park land.
22. A review from Public Works and Utilities has not yet been received on this project. Their report will be provided when it is received, and the plans must be revised in compliance with deficiencies noted in that review.

CONDITIONS:

Should the Planning Commission choose to approve this PUD, the following are the recommended conditions of approval.

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:
 - 1.1 Revise the plans as follows:
 - 1.1.1 Show land use nodes in the B-2 designating no more than 50,000 square feet of office floor area between South 63rd Street and the R-1, and no more than 185,000 square feet of commercial floor area west of South 63rd Street, not exceeding a total of 235,000 square feet overall. Adjustments to allow office floor area to be reallocated and used as commercial floor area west of South 63rd Street may be approved administratively.
 - 1.1.2 Show a minimum 50' wide landscaped buffer area between the R-1 and adjacent commercial uses.
 - 1.1.3 Add the following note: "The specific layout of the commercial nodes will be approved administratively prior to final plat approval."
 - 1.1.4 Show all required screening, and add a note that states: "Individual lot landscaping for all office and commercial buildings will be reviewed at the time of building permits. Street trees to be reviewed at time of final plat and assigned by Parks and Recreation."
 - 1.1.5 Provide sidewalks along both sides of all interior streets and private roadways and provide sidewalks from there to the front door of each commercial building.
 - 1.1.6 Designate a 175' setback to commercial/office parking including driveways and a 200' setback to commercial/office buildings from the centerline of Highway 2.
 - 1.1.7 Add a note that states the following: "Signs allowed as per the R-1 and B-2 zoning districts, however pole signs are prohibited."
 - 1.1.8 Show the intersection of the private roadway and South 66th Street moved south to a point where it uses the access easement granted as part of Country Meadows 4th Addition.
 - 1.1.9 Show the south cul-de-sac deleted and the street connected to Outlot F

in Country Meadows Addition (this cannot be waived until a new legal notice is published and public hearing is held).

- 1.1.10 Show South 63rd Street stubbed to the southwest corner of the plat at the west edge of the detention cell.
- 1.1.11 Delete the restricted access gate across the private roadway.
- 1.1.12 Show the north cul-de-sac redesigned to create suitable building sites.
- 1.1.13 Show the retention of existing trees, except those indicated for removal on the submitted plans.
- 1.1.14 Show fire hydrants to the satisfaction of the Fire Department.
- 1.1.15 Show required LES easements.
- 1.1.16 Show open spaces/detention areas as outlots.
- 1.1.17 Revise the general site notes to the satisfaction of the Planning Department.
- 1.1.18 Provide proper street names for all streets and private roadways within the development.
- 1.1.19 Show revisions to the satisfaction of Public Works and Utilities.

1.2 Grading and drainage plans to be approved administratively prior to issuance of building permits.

- 2. This approval permits 32 dwelling units and 235,000 square feet of commercial and office floor area and waives the preliminary plat process.
- 3. City Council approves associated request CPA#04010.
- 4. If any final plat on all or a portion of the approved planned unit development is submitted five (5) years or more after the approval of the planned unit development, the city may require that a new planned unit development be submitted, pursuant to all the provisions of section 26.31.015. A new planned unit development may be required if the subdivision ordinance, the design standards, or the required improvements have been amended by the city, and as a result, the planned unit development as originally approved does not comply with the amended rules and regulations.
- 5. Before the approval of a final plat, the private roadway improvements, sidewalks, sanitary sewer system, water system, drainage facilities, land preparation and grading, sediment and erosion control measures, storm water detention/retention facilities, drainageway improvements, street lights, landscaping screens, street trees, and street name signs, must be completed or provisions (bond, escrow or security agreement) to guarantee completion must be approved

by the City Law Department. The improvements must be completed in conformance with adopted design standards and within the time period specified in the Land Subdivision Ordinance.

6. Permittee agrees:

to complete the paving of all public streets and private roadways shown on the final plat within two (2) years following the approval of this final plat.

to complete the installation of sidewalks along both sides of all interior streets and private roadways as shown on the final plat within four (4) years following the approval of the final plat.

to complete the public water distribution system to serve this plat within two (2) years following the approval of the final plat.

to complete the public wastewater collection system to serve this plat within two (2) years following the approval of the final plat.

to complete the enclosed public drainage facilities shown on the approved drainage study to serve this plat within two (2) years following the approval of the final plat.

to complete land preparation including storm water detention/retention facilities and open drainageway improvements to serve this plat prior to the installation of utilities and improvements but not more than two (2) years following the approval of the final plat

to complete the installation of private and private streetlights within this plat within two (2) years following the approval of the final plat.

to complete the planting of the street trees along all streets and along Highway 2 within four (4) years following the approval of the final plat.

to complete the planting of the landscape screen along Highway 2 within this plat within two (2) years following the approval of the final plat.

to complete the installation of the street name signs within two (2) years following the approval of the final plat.

to complete any other public or private improvement or facility required by Chapter 26.23 (Development Standards) of the Land Subdivision Ordinance in a timely manner which inadvertently may have been omitted from the above list of required improvements.

to submit to the Director of Public Works a plan showing proposed measures to control sedimentation and erosion and the proposed method to temporarily stabilize all graded land for approval.

to complete the public and private improvements shown on the Planned unit Development.

to retain ownership of or the right of entry to the outlots in order to maintain the outlots and private improvements on a permanent and continuous basis and to maintain the plants in the medians and islands on a permanent and continuous basis. However, the subdivider may be relieved and discharged of this maintenance obligation upon creating, in writing, a permanent and continuous association of property owners who would be responsible for said permanent and continuous maintenance. The subdivider shall not be relieved of such maintenance obligation until the private improvements have been satisfactorily installed and the documents creating the association have been reviewed and approved by the City Attorney and filed of record with the Register of Deeds.

to continuously and regularly maintain the street trees along the private roadways and landscape screens.

to submit to the lot buyers and home builders a copy of the soil analysis.

to pay all design, engineering, labor, material, inspection, and other improvement costs including any costs for any improvements in Highway 2 required to allow turning movements into this site.

to comply with the provisions of the Land Preparation and Grading requirements of the Land Subdivision Ordinance.

to protect the trees that are indicated to remain during construction and development.

to properly and continuously maintain and supervise the private facilities which have common use or benefit, and to recognize that there may be additional maintenance issues or costs associated with providing for the proper functioning of storm water detention/retention facilities as they were designed and constructed within the development, and that these are the responsibility of the land owner.

to relinquish the right of direct vehicular access to Highway 2 except as shown.

General:

7. Before receiving building permits:

- 7.1 The permittee shall have submitted a revised and reproducible final plan and the plans are acceptable:
- 7.2 The construction plans shall comply with the approved plans.
- 7.3 Final plats shall be approved by the City.
- 7.4 Applicant agrees to pay for the design and installation of any required turn lanes in Highway 2.

Standard:

8. The following conditions are applicable to all requests:
- 8.1 Before occupying the dwelling units and commercial buildings all development and construction shall have been completed in compliance with the approved plans.
 - 8.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established owners association approved by the City Attorney.
 - 8.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 8.4 This ordinance's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 8.5 The City Clerk shall file a copy of the ordinance approving the permit and the letter of acceptance with the Register of Deeds. The Permittee shall pay the recording fee in advance.

Prepared by:

Brian Will
441-6362, bwill@lincoln.ne.gov
Planner
April 4, 2005

Applicant/

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**COMPREHENSIVE PLAN AMENDMENT NO. 04010
and
CHANGE OF ZONE NO. 05026,
APPLE'S WAY PLANNED UNIT DEVELOPMENT**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 13, 2005

Members present: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand.

Staff recommendation: Denial.

Ex Parte Communications:

Commissioner Bills-Strand disclosed that she and Roger Larson met with Mark Hunzeker to review the project.

Marvin disclosed that he had a telephone conversation with Peter Katt, who talked about traffic counts and the impact of traffic on Hwy 2.

Sunderman disclosed that he also met with Mark Hunzeker.

Pearson disclosed a phone call from Mark Hunzeker regarding what she considers to be the access to 56th and the designation of the commercial big box versus residential.

Brian Will of Planning staff submitted additional information for the record, including an e-mail from the Planning Director to the applicant's representative to clarify some of the statements and substance of the letter attached to the staff report on the Comprehensive Plan Amendment from Marvin Krout to Mark Hunzeker (p.193).

The additional information also included two letters from Royce Mueller and Jim Krieger in a neutral position, and five letters in opposition.

Proponents

1. Tom Huston, 233 S. 13th Street, Suite 1900, appeared on behalf of the applicants, Apple's Way, LLC, and UNO Properties Corporation. This morning the applicants made the decision to request a two-week deferral. Over the last 24 months, the applicants have been working closely with the Country Meadows Homeowners Association. Due to some of the letters received in opposition, the applicants are requesting a two week deferral to again meet with the Board of Directors of the Association and perhaps meet with the general neighborhood association.

Huston explained that the concept plan submitted was designed to address the entire site. He submitted a letter from the Lincoln Trade Center in full support of the proposal, and the letter from Royce Mueller, who is the President of the neighborhood association.

Another reason for the deferral is to resolve some of the procedural issues that involve the staff report. There are 19 site specific conditions, 10 to 11 of which deal with the preliminary plat process. Huston stated that the applicant did not request a waiver of the preliminary plat process and they envision going through that process to deal with the engineering issues. They are utilizing the PUD ordinance to see if they have a concept that is acceptable. They will meet with staff to address a lot of the site specific conditions. Huston also believes there are conditions that can be added to increase the comfort level of the neighborhood. The site plan envisions a residential portion and a commercial portion, and the applicants are confident that they can address the concerns of the neighborhood on the residential portion through restrictive covenants. Huston also believes they can address the issues in the commercial area through site specific conditions in the PUD process.

Huston also requested to be as early on the April 27th agenda as possible.

Taylor moved to defer, with continued public hearing and action scheduled for April 27, 2005, seconded by Krieser and carried 9-0: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'yes'.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

April 27, 2005

Members present: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand.

Staff recommendation: Denial.

Ex Parte Communications: Bills-Strand, Larson, Carroll, Krieser and Pearson disclosed a telephone call from Mark Hunzeker advising that the neighborhood had met but had not provided a written statement.

Brian Will of Planning staff submitted additional information, including a letter from Royce Mueller, President of Country Meadows Homeowners Association, requesting that this proposal be deferred for two weeks; and two letters in opposition.

Dennis Bartels of Public Works & Utilities submitted the recommendations of Public Works & Utilities which were not included in the original staff report.

Proponents

1. Mark Hunzeker appeared on behalf of **Apple's Way LLC** and **UNO Properties**, and discussed the traffic issues. Hwy 2 is a principal arterial designated in the Comprehensive Plan as a protected corridor. This proposal adds some traffic to Hwy 2 and may add to the potential need to add lanes on Hwy 2 by 2025. The original traffic report on this site concluded that this proposal should be restricted to 250 dwelling units without a signalized access to Hwy 2. Everybody knows that Hwy 2 is a principal arterial and carries high volumes of traffic. Hunzeker suggested that the Hwy 2 corridor preservation designation in the Comprehensive Plan really means preservation of right-of-way and limitation of new access points along Hwy 2. It doesn't talk about protecting against land uses which provide economic development opportunities. This project is in conformance. This proposal does not seek to vacate right-of-way.

Hunzeker pointed out that Public Works finds that the applicant's traffic impact study does not show volumes on Hwy 2 that are unacceptable in year 2015. Thus, Hunzeker believes that the logical conclusion of all this is that this project does not create unreasonable burdens on Hwy 2. The traffic study assumed no south or east bypass, and we all recognize that in 20 years there is a high likelihood that Hwy 2 is going to need some improvement. Hunzeker submitted that this project represents reasonable land use because it is a parcel sandwiched between commercial on the west, Hwy 2 on the north, and a very nice acreage development to the south. This proposal makes a transition on the commercial at the west end with half-acre residential lots against the Country Meadows subdivision at the east end.

Hunzeker submitted that denial of this project, based on traffic concerns, is disingenuous. Everyone knows that Lincoln has a problem with traffic and street construction funding. We are going to have to find some ways to deal with it. Knowing that, it does not make any sense to deny projects such as this that provide some economic activity on infill sites where we have some capacity already in place. If you take a look at the big picture, there is not anywhere in Lincoln that you can point to that would not have question marks about it in a 20-year time frame. We can't reject projects and stop the economic activity of this city simply because we fear a traffic problem in 20 years. In fact, the traffic study identifies a number of intersection improvements that are necessary on Hwy 2, whether or not this project is developed at all. This developer has agreed to make and pay for those improvements, despite the fact that this project does not cause the need for all those improvements. The Public Works report admits that the traffic volumes from this proposal at 2015 are acceptable.

There are at least two studies in the possession of the city showing that at full build-out in 2025, it will likely be necessary to add additional through-lane capacity to Hwy 2. It is not caused by this project. This is a reasonable compromise for this site.

2. Tom Huston, 233 S. 13th, Suite 1900, appeared on behalf of **Apple's Way** and **UNO Properties**, and gave a brief history of this site, which has been in question since the Shopko proposal in 1994. Approximately two years ago, members of this Commission told the owners and the neighbors to get together and prepare a land use plan for the entire site and that is what they have tried to do.

Huston submitted exhibits for the record, including a letter of endorsement from Lincoln Trade Center Owners Association dated April 6, 2005, and a letter dated April 12, 2005, from Royce Mueller, President of Country Meadows Homeowners Association. The developer agreed to a two-week deferral two weeks ago and offered to meet with the association. Exhibit 3 is a commitment on which the developer has been working with the neighborhood for the last two months. Some changes were made and provided to the association Board of Directors on April 19, 2005. There are two components - residential and commercial. With regard to the residential component, the owner has committed to:

- ▼ limit to 32 lots with covenants substantially similar to the Country Meadows covenants.
- ▼ retain the existing topography and natural features of the site – retain and enhance the detention ponds; retain all of the existing trees.

- ▼ access to a traffic signal. One of the big issues is how to give them that access. The neighborhood has a concern about exiting this area and going through the neighborhood. The developer made the commitment to push for a restricted access gate at the demarcation to permit west- bound traffic so that the neighbors can have access to the traffic signal to get access to Hwy 2.
- ▼ provide a location and pay up to \$10,000 for an entryway sign for Country Meadows.

With regard to the commercial component, the developer has committed to:

- ▼ develop no more than 235,000 sq. ft., which is less than 14% FAR.
- ▼ prohibit fast food, convenience store, 24-hour operations.
- ▼ common design requirements providing pedestrian friendly commercial development.

The commercial development, utilizing the distance, the hill, the trees, the ponds and the single family homes envisioned, provides a good buffer to the neighborhood.

This commitment was provided to the neighborhood and they sent out a ballot, but Huston did not have the results; however, he has been told that they had a pretty good return.

Huston also submitted Exhibit 4, which is a letter from Royce Mueller asking for a two-week delay. Huston does not see anything to be gained by such a delay and Dr. Mueller could not assure him that the position of the neighborhood would solidify in the next two weeks.

Huston then referred to the conditions of approval in the staff report on the PUD. There are 19 site specific conditions, ten of which Huston believes should be handled during the preliminary plat process. The applicant did not request a waiver of the preliminary plat. The applicant will come back before the Planning Commission with all of the engineering data in a preliminary plat process.

Huston requested amendments to the conditions of approval:

- ▼ Amend Condition #1.1.1 to clarify the 235,000 sq. ft. of commercial space:

Show land use nodes in the B-2 designating ~~no more than 50,000 square feet of office commercial floor area between South 63rd Street and the R-1, and no more than 185,000 square feet of commercial floor area west of South 63rd Street~~, not exceeding a total of 235,000 square feet overall. Adjustments to allow office floor area to be reallocated and used as commercial floor area west of South 63rd Street may be approved administratively. The uses to be designated within the total square footage approved shall not exceed the generation of a maximum of 1200 trips during the p.m. peak periods.
- ▼ Amend Condition #1.1.4:

~~Show all required screening, and~~ Add a note that states: "Individual lot landscaping for all office and commercial buildings will be reviewed at the time of building permits. Street trees to be reviewed at time of final plat and assigned by Parks and Recreation."

- ▼ Amend Condition #1.1.11 to clarify the restricted access:

~~Delete the restricted access gate across the private roadway. The restricted access gate across the private roadway and separating the residential district from the commercial district may be replaced with a one-way street, a round-about or other traffic calming device to be approved administratively prior to the issuance of building permits.~~

- ▼ Delete Condition #1.1.10, which requires a stub on the development's interior street, even though it is not a street (it is a private road), to provide future connection to S. 56th.

- ▼ Add Condition #1.1.20 to prohibit uses of fast food and 24-hour operations:

Add a note that provides "No fast food restaurants with drive-through access or 24-hour operation uses shall be permitted in the B-2 zoning district of this planned unit development.

- ▼ Add Condition #1.1.21 to clarify the contributions which were addressed in Mr. Hunzeker's testimony:

Add a note that provides: "The Developer shall:

- a. At its cost and expense, install the improvements at its entrance on 63rd Street, including:
 - Traffic signal
 - 400' right turn lane for eastbound traffic
 - 200' left turn lane for westbound traffic
 - Removal of median break for existing house
 - Reconstruct existing median break.
- b. At its cost and expense, install the improvements at 66th Street and Highway 2, including:
 - 150' right turn deceleration lane for eastbound traffic.
- c. Contribute the sum of \$425,000 to the City of Lincoln to pay for the off-site improvements recommended in the Traffic Impact Study prepared by Olsson Associates dated March 2005.

Marvin asked for an explanation of the reference to p.m. peak periods in Condition #1.1.1. Huston explained that the total number of trips in a report is irrelevant. The traffic engineer focuses upon the a.m. peak period and the p.m. peak period. They looked at the anticipated commercial uses and tried to cap those commercial uses with the amendment to Condition #1.1.1. It was a balancing act.

Pearson asked for clarification of the amendment to Condition #1.1.10. Huston explained that the proposal shows public right-of-way the appropriate distance off of Hwy 2 and then turns into private road. Staff is requiring that they move the detention cell and show a stub street at the southwest corner that eventually could be connected over to S. 66th St. The site plan shows a connection with the Trade Center. The staff is requesting the stub in addition to the connection to the Trade Center. It is a problem from a design perspective in that they cannot achieve all of the objectives simultaneously by showing that stub street. The proposal is attempting to show a pedestrian friendly interior, and that is inconsistent with showing through traffic from Hwy 2 to S. 66th. He believes the stub street would present problems down the road.

Carlson inquired as to how long the developers have owned the property. Huston believes that it has been under contract for two years and they have held title for approximately one year and nine months.

Opposition

1. Gene Schwenke, 6061 Frontier Road, on the north side of Hwy 2, with access off Old Cheney Road on Frontier Road, testified in opposition. He has lived on this acreage for 33 years. When he moved there in 1972, it was a two-lane road and there was a fair amount of traffic. Through the years, he lost approximately 10 feet of his property on the back portion of his lot to the highway. He also had an access road that was more or less a driveway and he had to sign a statement that he would no longer use it. He lives in Sheldon Heights consisting of acreages from 2 to 10 acres. He is not against housing or a acreage development in this area, but he is definitely against any more commercialization in this area. The traffic has doubled, tripled and quadrupled. Sheldon Heights did not benefit much by being annexed. He believes they pay more taxes and get less services. He agrees with the residential component, but more commercial is not acceptable. There is a Home Depot, Menards, Wal-Mart, and Tractor Supply within 3-5 miles of his home. He agrees that the City Council had said there would be no more development from 56th to 84th. He does not know where that stands.

Mr. Schwenke stated that he has personally talked to Royce Mueller and the Country Meadows association has not made a decision. There are things they still want to work out with the developer. Schwenke believes this development is wrong until further studies are done.

2. Christine Kiewra, 6400 S. 66th, testified in support of the staff recommendation of denial. At the time that Home Depot was approved at 70th and Hwy 2 and 84th and Hwy 2, people became concerned about the Capitol View Corridor and entryway to the city. Then Mayor Don Wesely and the City Council assured the home owners that Home Depot is the last of commercial to be approved along this corridor. The subarea plan was developed; this applicant requested additional commercial; and it was denied. She believes this applicant has owned a portion of the property for several years and acquired this portion more recently. At the time the subarea plan was brought forward, Greg Schwinn was on the Commission and his response was that "this guy has got to stop putting a square peg in a round hole".

Kiewra agreed that the developer has been working with the homeowners but they are still putting a big box of commercial development in this area. Many homeowners, individually and with their associations, worked for that subarea plan. The residential portion of this development is appealing and she does not believe the neighbors are opposed to that part. She noted that not very many of the homeowners are here today, but she believes the homeowners

have a difficult time staying on top of these projects. In addition, she does not believe the Pine Lake, Southfork, Family Acres, Lee's Summit, and other neighborhoods in the area were contacted by the developers. Kiewra advised that Country Meadows is hiring an attorney to help them through further discussions. They are also meeting with the Planning Director next week and would prefer a two-week delay.

3. Randy Hoskins, City Traffic Engineer, testified that the traffic impact study prepared for this development proposes uses that would create about 11,500 trips for this site. The existing Comprehensive Plan designation would generate 9,200 trips a day. If you add the 11,500 trips to the approximately 14,000 trips already there on Hwy 2, that would put over 25,000 trips a day on that road, which is pretty much the capacity for a four-lane road. When the model is run for the city, they look at the land uses shown in the Comprehensive Plan in a 25-year scenario. The LRTP (Long Range Transportation Plan), which is part of the Comprehensive Plan, is based on those numbers. The last run of the LRTP model found that we needed the full capacity of Hwy 2 in order to be able to handle the growth that we expect will be occurring in this area in the next 25 years. That was assuming 2500 trips per day from this site, not 11,500. If we are looking at adding 9,000 trips a day, he suggested taking another look at the Comprehensive Plan and assume six lanes between 56th and 84th in order to handle the future traffic.

In the past, efforts have been made to maintain Hwy 2 as a four-lane roadway. For example, the Appian Way development had a trip cap; there have been several other locations that have worked to upgrade their zoning to commercial or office and were not approved. The Commission needs to keep in mind the long term impacts of adding significant additional commercial at this site. It sounds like they are asking for a 1200 trip p.m. peak hour maximum. The traffic study showed only 1,050 p.m. peak trips, so what they are asking for would actually increase the number of trips that they could generate.

4. Harold Moser, owner of the property at the northwest corner of 70th and Hwy 2, is concerned about additional stop lights and access points on Highway 2, which will literally reduce this so-called expressway to just another downtown street. The problem is not how many more buildings are constructed, but how many more times we are going to stop that traffic as it goes back to Lincoln. We are stopping the traffic too much right now. As you get further out, it takes longer and longer to get to town. We need to find a way to alleviate that. We need to prevent additional commercial development between 70th and 56th.

*** Five-minute break for technical difficulties with the sound system ***

Upon reconvening, Chair Bills-Strand confirmed that there were no ex parte communications during the break.

5. Kathleen Batterman, 6901 Almira Lane, testified in opposition, with concerns about the neighbors having to appear on a regular basis to remind everyone of agreements that have been in place in this neighborhood and the city. The neighborhoods worked to develop a Comprehensive Plan that everyone has agreed upon. The Planning Commission's first review might be to compare the development to the Comprehensive Plan and when it is inconsistent, they should encourage the developer to look elsewhere. The developer should be told up-front that their proposal is unlikely. Please deny this application.

6. Beverly Moser, property owner at the northwest corner of 70th and Hwy 2, testified in opposition and reminded the Commission of the agreement that this area would be AGR. This agreement gets eroded constantly. Home Depot is an eyesore along with the additional traffic that it brings. She is not opposed to additional residential development. The idea of any further commercial development seems to go against the neighborhood that she and her husband joined and have participated in for many years.

7. Vil Rizis, 6801 Almira Lane, testified in opposition. He does not know of anyone in his neighborhood that is in favor of the commercial zoning. They all took a hit on their property values with Home Depot, and now they are being asked to take another hit. He believes that the logical expansion of that area should be residential. In terms of traffic flow, it is a very difficult to get across 66th and Hwy 2 now. They have been cut off on Almira Lane at 70th and cannot go north, so they have to use 66th Street. This will be even more difficult if more traffic is added to 66th Street. Please deny the commercial zoning.

Staff questions

Jon Carlson asked if this area was ever designated for commercial use in the Comprehensive Plan. Brian Will of Planning staff did not recall that it was. The most recent history is as stated in the report. It has always been shown as residential, and most recently in the subarea plan, a small area was designated special residential to allow for some kind of transition from the residential on this site to the Trade Center to the east, such as potentially day care or some use slightly more intensive than residential but not limited specifically to residential. There have been several applications to change to commercial; several others in the discussion phase; and several have been brought forward to the Planning Commission. He did not have a specific number, but agreed that this is a discussion that the property owners have had several times over the last 10 years.

Based on 62 acres, Pearson inquired as to the maximum number of residential dwelling units that would be allowed on this parcel. Will indicated that it would depend on the density. The original traffic report done by Schemmer looked at this site as single family development of approximately 250 units (approximately four units per acre). That density showed that a traffic signal would not be required and staff has supported this all along.

Pearson does not quite understand the concern about traffic at this intersection when we just put in the big boxes down the street—Menards, Wal-Mart, Home Depot, and a couple of high rise hotels. Aren't we worried about the traffic generation upstream of Hwy 2? Why are we more concerned about the traffic at this intersection than we are further east? Will explained that those land use decisions were made and are now part of the subarea plan and Comprehensive Plan. The subarea plan also shows this site as residential. Staff is taking the position that this should be maintained and that we can live with the traffic network in the area.

Bills-Strand inquired whether access would be allowed onto Hwy 2 if this land was going to be developed 100% residential, or would they have to go through Country Meadows and either out 66th or the back road on Pine Lake? Dennis Bartels of Public Works explained that there is an outlot left with the original plat of Country Meadows which was intended to be a street connection back to 66th Street. There are some existing breaks in the controlled access along Hwy 2 that don't have the median openings or the signal.

Potentially they would have access onto Hwy 2. If it was residential, he senses there might be a right-in right-out along Hwy 2 between 66th and Old Cheney Road. If we were to limit to no signal it would be better not to have the median opening.

Response by the Applicant

Hunzeker urged that the Commission should be considering the potential for this site. If it were developed pursuant to the subarea plan, maybe it shouldn't even have a median break on Hwy 2 and go back through Country Meadows. He assured that no one in Country Meadows wants that to happen. They do not want a street put through that outlot. This developer has let the neighborhood know that they want access to Hwy 2 and any access to Country Meadows would be at 66th with a traffic signal on Hwy 2. Four dwelling units per acre plus the "special residential" including multi-family would make that site less and less compatible with the existing residential in Country Meadows. This developer has tried to make a transition using large lots at the east end abutting the outlot in Country Meadows and using the terrain and the trees to screen the commercial and keep it at the west end.

Hunzeker observed that there is a stop light every ½ mile on Hwy 2 from 91st Street all the way to Van Dorn, except this stretch of Hwy 2 at 66th Street. This is the only place you do not have the access to Hwy 2. Having a stop light here will be beneficial to everyone.

Hunzeker also took issue with the Traffic Engineer's calculation of 11,500 trips per day. If the 235,000 sq. ft. of commercial generates 11,500 trips per day, and you just add that onto the existing count of 14,000 on Hwy 2, the math doesn't work because with what is already approved, existing and to-be-built on Hwy 2, there is something like 3.2 million sq. ft. between 56th and Hwy 2 and 91st and Hwy 2. If you run those numbers, it adds up to about 49 trips per 1,000 sq. ft. per day, implying a total volume of 156,800 cars on Hwy 2. That is not playing fair with the numbers in his opinion. That is why traffic engineers focus on the intersection functions in traffic studies as opposed to trips per day.

Marvin noted the maximum p.m. trips of 1200 in Condition #1.1.1. Is it fair to assume that you do not mention the a.m. peak hour because you will have minimal impact? Hunzeker stated that the a.m. peak hour trips are lower. You use the higher of the two. Hunzeker did acknowledge that the developer would be willing to discuss the 1200 trips with staff.

COMPREHENSIVE PLAN AMENDMENT NO. 04010

ACTION BY PLANNING COMMISSION:

April 27, 2005

Taylor moved denial, seconded by Carlson.

Carlson commented that he has been on the Commission since 1999, and he has seen this application come back again and again and again, and like Greg Schwinn, he agrees that it is "trying to put a square peg in a round hole". This position has been supported by the Planning Commission, City Council and Planning Department for 12 years. He is not sure about the dynamic of coming back and asking for the same thing over and over again. He knows it is important to stick with the strong planning principle and he does not understand why the applicant continues to come back. He believes we need to be consistent. We have to be able to say no and have a good reason to say no.

Marvin commented that in this case, they are creating a buffer and access points that move traffic away from Country Meadows. He believes the developer is being sensitive to the spirit of traffic counts on Hwy 2.

Pearson stated that this is very difficult and complex, particularly when the Commission did not hear from the neighborhood Board of Directors. She understood they took a vote, got the results and are not presenting those votes, so she is curious what the neighborhood really feels like. Good planning principles are very difficult to determine when you are on one side of the fence being a developer and on the other side when you are a neighbor. Given the fact that this parcel is adjacent to an industrial trade center, on a major arterial through the community, and bounded by large commercial development on one end (Menards, Wal-Mart), she believes this is about as sensitive as we're going to get and she will not support denial.

Larson observed that the community has told various developers over the years, officially and unofficially, that we do not want commercial development there. The Home Depot was okayed and that further implied there would not be any other commercial development there, so he will support the denial. He hates to turn away a potential development, but it is in the wrong place.

Carroll stated that he will support denial. It is putting a large square into a small hole. Traffic is the biggest concern. It would be a better site for all residential and that is the way the plan has been designed. This is asking for too much on this small 67 acres.

Bills-Strand believes this is a good buffer. It buffers the Trade Center area; it is giving access. Nothing is worse than the traffic around the Trade Center with the existing accesses; this might actually help that traffic situation. She will not support denial.

Taylor is going to support denial because when Home Depot and Wal-Mart were approved, it was with the idea that we did not want to turn this into a strip mall. We wanted that corridor entry to Lincoln from the east/south and southeast to be very attractive and we want to keep it that way. He is also considering the traffic flow and residential area there. He does not see any reason to change that now. It was with some tough consideration at that time that the Planning Commission made those decisions and we still thought then that it is better for the future of our city to keep that corridor looking as attractive as possible.

Motion to deny failed 4-5: Carroll, Carlson, Taylor and Larson voting 'yes'; Pearson, Marvin, Krieser, Sunderman and Bills-Strand voting 'no'.

Taylor moved to defer for two weeks in order to hear back from the neighborhood as to their vote, seconded by Pearson.

Bills-Strand indicated that she was inclined to vote against deferral since it has been deferred for almost a year and the neighborhoods have had plenty of time to talk and can still talk before it gets on the City Council.

Pearson stated that she will support the deferral. Her initial reaction is no, let's move it on, and the neighbors have been asked to come back over and over, but she thinks we're missing a part of the story and she is not comfortable denying or approving.

Carlson stated that he will support the motion, but it has been recommended residential for 12 years, the commercial has been denied for 12 years, and two weeks is not going to tell him anything more that he needs to know.

Carroll believes that the Country Meadows neighbors are in turmoil and he does not believe they are going to come to agreement in two weeks.

Motion to defer, with continued public hearing and action on May 11, 2005, carried 5-4: Pearson, Marvin, Sunderman, Carlson and Taylor voting 'yes'; Carroll, Krieser, Larson and Bills-Strand voting no.

CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:

May 11, 2005

Members present: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand.

Staff recommendation: Denial.

Ex Parte Communications: Bills-Strand disclosed that she had a telephone call from Mark Hunzeker explaining what has transpired at the neighborhood meetings; Larson, Krieser and Taylor had the same telephone call from Hunzeker. Marvin stated that he talked with Peter Katt about leaving the Planning Commission and his status of voting either here or at the City Council. Marvin will vote on this project as a Planning Commission member and he will not vote at the City Council. Sunderman had discussions with Mark Hunzeker, Don Kuhn and Kathy Batterman. Pearson had a discussion with Mark Hunzeker.

Brian Will of Planning staff submitted four additional letters in support and three in opposition. He also submitted a letter from Rob Otte on behalf of the Country Meadows Homeowners Association, providing feedback regarding the vote had by the neighborhood association, which indicates that the vote was 20-19 against the project.

Proponents

1. Mark Hunzeker submitted a written memorandum in response to the memorandum the Commission received from Marvin Krout. Hunzeker disagrees with the staff's subjective interpretation of the meaning of "corridor preservation" as it relates to Hwy 2 in the Comprehensive Plan. The Comprehensive Plan clearly speaks to the design of this highway as a high traffic roadway and preservation of right-of-way as opposed to preservation for other purposes:

This diagonal roadway carries significant traffic volumes today and is project to remain as the busiest thoroughfare along the city's southern tier.

Hunzeker went on to state that presently, there are signals every one-half mile from 91st Street all the way to Van Dorn. 20th Street also only serves one side of the highway and pioneers was the same way until just recently.

Hunzeker suggested that the issue of precedent is simply an attempt to scare people. The Public Works report states that the applicant's traffic study shows volumes on Hwy 2 at 2015 as being "not

unacceptable". This is clearly an indication that this project is not going to overburden Hwy 2 over the next 10 years. The development that has occurred in this part of the city over the last 20 years and the next 20 years is likely to perceive a need to improve Hwy 2, whether or not this project goes forward, and that is what the traffic study shows.

Hunzeker then suggested that Mr. Krout's standpoint on economic development is splitting hairs to distinguish between primary and local business, particularly as a land use analysis tool. If this project involved a large primary employer, the issue would still be traffic. It is the same issue, regardless of the size of the commercial development or a large employer, whether office or otherwise.

With regard to the issue of cut-through traffic in Country Meadows, Hunzeker purported that raising this as a specter to oppose this project is inconsistent with the staff's recommended land use. Placing 250 dwelling units on this property and not providing a traffic signal to Hwy 2 would cause more cut-through traffic than this project is likely to cause if there is signalized access to Hwy 2. The staff suggested at the last hearing that it might be appropriate to put a street through the outlot in Country Meadows. The applicant does not want to do that. Closing the median access to Hwy 2 would be yet another push to run traffic through Country Meadows. Extending the roadway to the west is a moot issue at this point. The Trade Center access has been maintained and the Trade Center has indicated its support of this project as a means of accessing Hwy 2 at a signalized access.

Hunzeker submitted a letter of support from West Gate Bank.

With further regarding to the Country Meadows Homeowners Association, Hunzeker pointed out that the developer has agreed to submit and record restrictive covenants on the residential portion of the property limiting its development to 32 dwelling units and one-half acre lot sizes. The developer has even offered to make those dwelling units part of the Country Meadows Homeowners Association in order to give Country Meadows architectural control, together with all of the other items in the commitment previously submitted. Hunzeker proposed that the commitment become a binding contract, enforceable by the Country Meadows Homeowners Association.

Hunzeker requested the Commission's approval, subject to the motions to amend which were submitted at the last meeting by Tom Huston.

2. Peter Katt testified on behalf of the applicant, and submitted information from the applicant's traffic engineer at Olsson Associates which discusses the consequences to traffic on Hwy 2. The general impetus of this report is to put into context the claim by City staff that somehow the 11,000 trips generated translate directly into 11,000 plus 14,000 on Hwy 2, equalling 25,000 trips. The traffic engineer's report rebuts that allegation.

Opposition

1. Former Mayor Don Wesely testified on his own behalf. There have been a number of articles about this project and he has been quoted regarding the promise made to Country Meadows when he was Mayor, and the promise that was incorporated in the subarea plan and adopted by the City. "A promise made should be a promise kept," whether it was by the former Mayor, former City Council or former Planning Commission. Wesely believes that this proposal

should be rejected, not because the developers are not good people, and not because it would not be wonderful to have Lowe's, but this is the wrong site for a number of reasons.

Before Wesely became Mayor in 1999, this site had been in controversy with the previous administration, and at that time it was a very strong position by the city that a Shopko should not be built there and that it should be a residential development. Home Depot came forward shortly after Wesely took office, looking at a site that had been designated as commercial, and wanted to zone it appropriately. There was very strong opposition from the neighborhood. It looked as though that project would not go forward. He reached a compromise with the neighbors that in exchange for the current Home Depot location, there was a promise made by the city that the Shopko site bordering the neighborhood would not be a commercial development—that it would be a residential development. With that understanding, Home Depot was allowed to be built. After that, the subarea plan went forward, which reiterated the residential nature of this property and that commercial property should be placed to the east where homes have not yet been built. That was adopted and became a policy of the city. Even after that, Wesely continued to have developers come in proposing to develop the property commercially and he said it would not happen. We made a promise and adopted a policy.

Wesely left office and again, the attempt is being made by another developer. Wesely acknowledged that the project does have a lot of appeal, and a 20-19 vote is not an overwhelming show one side or the other. But, this poor neighborhood has been beaten down on this issue for so many years, that they are at a point where they just simply want to resolve it. That is the wrong approach. This city has got to have a level of trust. The Planning Commission should reaffirm that a policy was adopted and the promise made should continue. There are other sites available to Lowe's that are appropriately zoned and designated.

Wesely reiterated that he is not representing anyone. He urged that the city should keep its word and not approve this project.

2. Don Kuhn, 6701 Almira Lane, in Lee's Summit Addition, testified in opposition. There are about three blocks in Lee's Summit which are almost the same length as the blocks in Country Meadows. There are eight houses. Lee's Summit has been around 38 years, yet they do not even get mentioned in this whole thing. Country Meadows wraps around Lee's Summit. Because of the median break in Hwy 2 to get into Home Depot, the Lee's Summit residents are going west onto 66th Street. Why put the driveways in on 66th Street if there is not going to be traffic coming onto 66th Street? The Lee's Summit residents cannot go north very easily, but neither can the traffic cut through, which stacks up clear down to the opening going into Home Depot. 66th Street is not thick enough and the street is breaking down far more than the average street should be.

A few years ago, Hampton drilled a hole through Hwy 2 and put a sewer line on the south side. When that sewer failed, the tanks were pulled out. But Kuhn believes that the laterals are still in the ground and he is concerned about building on top of those laterals. Is that fair? Kuhn believes that Lee's Summit has been shortchanged.

3. Denene Collura, 6500 S. 66th Street in Country Meadows, testified in opposition. With regard to the negotiations between the developer and the homeowners, Collura believes it is a good phrase to say that the neighbors have been "beaten down." There have been multiple meetings and each time an agreement was made, the developer would come back with something different. Collura stated that she would not quibble over the traffic numbers, but it is a neighborhood with

children. Even 800 or 900 more cars a day is too many for that neighborhood to handle. She also offered that this issue is much larger than Country Meadows. This affects thousands of people – Family Acres, Sheldon Heights, Southfork, Pine Lake, Country Meadows – all of these people have been watching this corridor for many years and are very concerned about that corridor, one of the last premier corridors coming into Lincoln. The neighbors know the traffic already. There is a traffic light at 56th; then the traffic light at Old Cheney, with 25-30 car lengths. What about the semitrucks shifting up and shifting down? It's like New York City traffic, only adding the semitrucks.

Collura stated that she unsuccessfully attempted to visit with West Gate Bank, but she did visit with the nuns in the house across the Street at 63rd & Hwy 2. The nuns say their property has been purchased by West Gate Bank and that they are waiting for a precedent on the south side of Hwy 2 to then develop the north side of Hwy 2. This was confirmed by the neighbors in Sheldon Heights. The neighbors are ready to explode if anyone is let in the door. There is a need to talk about the preservation of this neighborhood.

4. Ken Kiewra, also a resident on South 66th Street in Country Meadows, discussed what this proposal is “not”. It is “not in line with city planning”—we have a special subarea plan that says we need to keep a desirable entryway and retain the residential character and minimize traffic. This is quite simple. The solution is to keep commercial development where it is designated and zoned. More importantly, the subarea plan did not fall out of the sky. It was carefully crafted by planning experts with the full input and a lot of labor by our community, fully supported by the Planning Commission, City Council and the Mayor, who made a promise to uphold this plan. It is not right today to consider the developer's proposal outside the commitment of the subarea plan.

The second “not” is that it is “not sensitive”. How sensitive is it to jam the Country Meadows neighborhood between two big box home improvement stores, each just less than 1/4 mile away? How sensitive is it to add 14,000 cars to Hwy 2 and 1200 more cars to a rural street without lights and without sidewalks? How sensitive is it to back new homes up to a Lowe's loading dock?

The third “not” is that this is “not a good plan for economic development”. Adding a Lowe's does not add to a local economy—it subtracts from the 4-5 home improvement stores in the area. What goes into Lowe's comes out of Home Depot, Menard's, Wal-Mart and the rest. In terms of economic development, there are only a few people who prosper economically, and those are the developers who bought property zoned AG, speculating that some day they could persuade city leaders that this land should be developed commercially. The developers are snapping up land on the other side of Hwy 2 just waiting to develop commercially. The vultures are circling and watching to see if our city's subarea plan dies.

Response by the Applicant

Hunzeker challenged that the suggestion that Lowe's or any other home improvement store would come to Lincoln with the idea only of garnering a piece of what is being done in the way of business from Menard's and Home Depot is wrong. No one makes the kind of investment that it takes to build, stock and operate those stores, anticipating only that they are going to be able to shave off a little piece from their competition. The idea is that the pie is growing and everyone can share in that. Competition is good for Lincoln.

Hunzeker also suggested that most of the time, proposals like this on property like this get more intense as time goes on. In this case, this developer has spent the last two years working with the

neighborhood association in “de-intensifying” this site. The last project was much more intense in terms of residential densities, commercial square footage, etc., than this particular project. The entire list on the commitment is a result of meetings and discussions held with the Country Meadows neighbors.

Furthermore, the Comprehensive Plan is not a static document. It changes over time. It must change over time. It has changed in this area in many, many ways. Originally, the Comprehensive Plan showed the entire area where the Trade Center and Country Meadows now exist as a proposed regional park. We now have the Trade Center and we now have Country Meadows. Arguably, we could have done better in terms of higher density, but it changed. West Gate Bank was shown as agricultural residential up until just a short while ago. Edgewood was originally shown as a 200,000 sq. ft. neighborhood center size project. We now have Home Depot, Pine Lake Plaza, Prairie Lake, and the south side of Hwy 2 across from Prairie Lake. In fact, Pine Lake Road itself is only 12 years old. That road did not go through to 56th Street 12 years ago, and everything that exists south of Pine Lake Road today, including the schools, was not even platted 12 years ago. The plan changes, the city changes. As time goes forward, these kinds of sites need to be developed and they need to be developed in a rational way. Hunzeker urged that this project represents a very good compromise with the neighbors who have been willing to meet with the developer and deal with the issues. He believes this project is sensitive to those neighborhood concerns, preserving the existing terrain and trees, limiting the amount of traffic going back to the Country Meadows neighborhood, providing a signalized access that they would not otherwise get, and it’s the only neighborhood on any side of Hwy 2 that has no access to Hwy 2 at a signalized intersection. This is a common sense plan, with the amendments to the conditions of approval proposed by the applicant.

COMPREHENSIVE PLAN AMENDMENT NO. 04010
ACTION BY PLANNING COMMISSION:

May 11, 2005

Motion #1: Carlson moved to deny, seconded by Carroll.

Carlson stated that he is opposed to strip-malling Hwy 2; he is opposed to dropping a big box supercenter at this location that will jam up Hwy 2 along the entryway corridor. He supports good traffic flow, compatibility of uses, and good neighborhoods. He agrees that the Comprehensive Plan has been a guide for 12 years on this issue. Yes, things change but they should change for the positive. This would be a change for the negative. The subarea plan was recently adopted. He agrees that there has been a lot of discussion but there has been clear direction. There should be no confusion about the city’s policy. The city’s word and plan ought to mean something.

Marvin disagreed. He believes that this settles the issue—it may not settle it to the agreement made years ago, but it creates a buffer between the existing residential with additional residential; it puts a traffic light in there; it improves traffic flow for the residents and puts resolution to an area that is difficult to develop as residential.

Taylor does not know how you increase traffic flow to improve traffic flow. He was on the Planning Commission when the commitment was made to the community that we would do everything we can to keep this from being a strip mall, looking at the corridor from the entrance from the east as being a sense of beauty and aesthetics. He commended Wesely for making his presence felt today in terms of good stewardship and good leadership in keeping true to a promise that was made in 1999. He agrees with the staff recommendation.

Carroll observed in looking at the history, that the constraints have not changed. They are what they were 10 years ago. There is not enough room for commercial development on the site. There are three pages of changes to the conditions because there is not enough room to do what they want to do. It is a difficult site to design. He believes that the people who voted in favor in Country Meadows are thinking they would get the gate, which he thinks is wrong, and they are wanting to get the light on Hwy 2, and that is the only reason they are in favor. They do not realize the consequences.

Pearson commented that she is a big fan of past Mayors, but she does not know how or what promises were made so all she can do is vote on the information that the Commission has received. She worked on the Comprehensive Plan Committee but things do change. This morning she got up very early and drove out to Hwy 2 and came in from 90th Street. Coming in she hit 87th Street, and what a shock—that huge commercial development and we haven't even seen what is coming on the south side—hotels. You then hit 84th Street with Home Depot, which sits down in a hole and you see a black fence. You keep going and the site we are talking about is an incredibly beautiful site with two ponds and a lot of trees. That beauty is continued on Hwy 2 because the railroad is on one side and the city owns land on the other side, which is a trail. So the corridor is kept on Hwy 2 because of city foresight in purchasing the land and the railroad. This site does not have that protection. It would have been very wise for the city to purchase this parcel for a park, but that is long gone and unfortunately, she would love to see it stay this way but she does not see there is any chance of that.

Larson stated that he has swayed back and forth on this. He respects former Mayor Wesely for coming today and reminding the promise that was made, but on the other hand, he also believes that the city is almost getting the reputation of turning business away. Lowe's is a kind of retailer that draws from a large area. It is not like putting another McDonald's on another corner. This would expand our market. He believes that the developers have created enough of a buffer that he will vote against denial.

Bills-Strand indicated that she would also be voting against denial. She agrees that this creates the compromise that allows low density housing to buffer Country Meadows. Without this compromise, she believes Country Meadows will be disappointed with the higher density residential.

Motion to deny failed 4-5: Carroll, Krieser, Carlson and Taylor voting 'yes'; Pearson, Marvin, Sunderman, Larson and Bills-Strand voting 'no'.

Motion #2: Marvin moved approval, seconded by Sunderman and carried 5-4: Pearson, Marvin, Sunderman, Larson and Bills-Strand voting 'yes'; Carroll, Krieser, Carlson and Taylor voting 'no'. This is a recommendation to the City Council and the Lancaster County Board.

CHANGE OF ZONE NO. 05026

ACTION BY PLANNING COMMISSION:

May 11, 2005

Motion #1: Taylor moved to deny, seconded by Carlson.

Carlson believes it is a small site for commercial. There are plenty of vacant sites available for commercial. If the commercial areas look bad at 87th and 70th, we should not make it look worse by adding this at 66th Street.

Carroll thought it interesting that two meetings ago the Planning Commission recommended denial on 84th and Adams (supposedly with a Wal-Mart) with the conjecture that there was going to be a traffic problem without a traffic study. Here, we have a traffic study that says we are going to have a traffic problem on this site. We say no to conjecture, yet we are going to approve something where we know there are going to be traffic problems? The city is open to all business but there needs to be a perfect site for those businesses (Wal-Mart and Lowe's) to be located.

Pearson does not believe it is a discussion between Lowe's and Wal-Mart. It's the difference between 84th Street and Hwy 2. Pearson then indicated that she will be making a motion to amend to not allow any single building occupant/commercial development to exceed 90,000 sq. ft.

Taylor recalled that one of the selling points of Home Depot was that the area was not able to be sold for residential anyway because of the grade. He thought Home Depot was a good use for that land. But, Taylor does not believe this area is unattractive for residential. All things considered, he believes it is a mistake to allow this commercial, especially in light of the interest in continuing to make that corridor a very attractive entrance to Lincoln.

Marvin commented that the Planning Commissioners are all taking this from a different perspective, but he just does not believe that the back end next to the Trade Center and railroad is likely to develop as residential. So the question is how to buffer Country Meadows with one-acre lots and how to introduce the commercial on a busy highway. He believes that this proposal provides those options and then it puts resolution to an area that is fully developed. 84th and Adams is not fully developed. The traffic counts are huge. It is strange that we have a protective corridor on Hwy 2. We should also recognize the fact that 84th Street is clearly the east beltway for this community for the next 40 years, yet we don't have a protective corridor there.

Bills-Strand pointed out that in the 12 years, no one has been able to come forward with residential. This is a nice compromise.

Motion to deny failed 4-5: Carroll, Krieser, Carlson, and Taylor voting 'yes'; Pearson, Marvin, Sunderman, Larson and Bills-Strand voting 'no'.

Motion #2: Marvin moved approval, with staff conditions as set forth in the staff report, with the amendments requested by the applicant, seconded by Sunderman.

Motion to Amend #1: Pearson moved to amend Condition #2:

This approval permits 32 dwelling units and 235,000 square feet of commercial and office floor area, with no single building footprint to exceed 90,000 sq. ft., and waives the preliminary plat process.

seconded by Carlson.

Discussion on Motion to Amend #1: Pearson does not like the design implications of "big box". It is a problem for a number of the reasons that have been stated by people in the room today who were against it, but she also agrees that there should be a buffer between the Trade Center and Country Meadows. Right now, we are looking at ½ acre parcels and then commercial. She cannot completely support putting in a big box. Commercial, yes, but no big box. Otherwise, she will not support the motion to approve.

Carlson stated that his concerns are about the supercenter and the effect on the community; however, he is not sure the amendment alleviates the compatibility or traffic concerns. We could have six drive-in restaurants creating the same trip problem. It is certainly worth discussion in the community and maybe something needs to be put in the Comprehensive Plan for further guidance.

Marvin stated that he does not want to create an unintended consequence. The applicant represents that their project is not going to put trip counts up at the p.m. peak. If we restrict the building envelope, we may get a different commercial activity there that puts trip counts up at the p.m. peak, which is something that we did not intend. He is very receptive to putting something in the Comprehensive Plan to be sensitive to these huge 100,000 and 200,000 sq. ft. big boxes. He is fearful of unintended consequences.

Larson agreed with Marvin. If we restrict the biggest use to 90,000 sq. ft., we might end up with a hodge-podge of things we were not anticipating.

Bills-Strand believes it is a matter of giving people choices. It is the trend nationally that the big boxes give lower prices and provide an option.

Motion to Amend #1 failed 1-8: Pearson voting 'yes'; Carroll, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'no'.

Motion to Amend #2: Carroll moved to amend the applicant's proposed amendment to Condition #1.1.11:

The restricted access gate across the private roadway and separating the residential district from the commercial district ~~may~~ shall be replaced with a one-way street, a round-about or other traffic calming device to be approved administratively prior to the issuance of building permits.

seconded by Pearson.

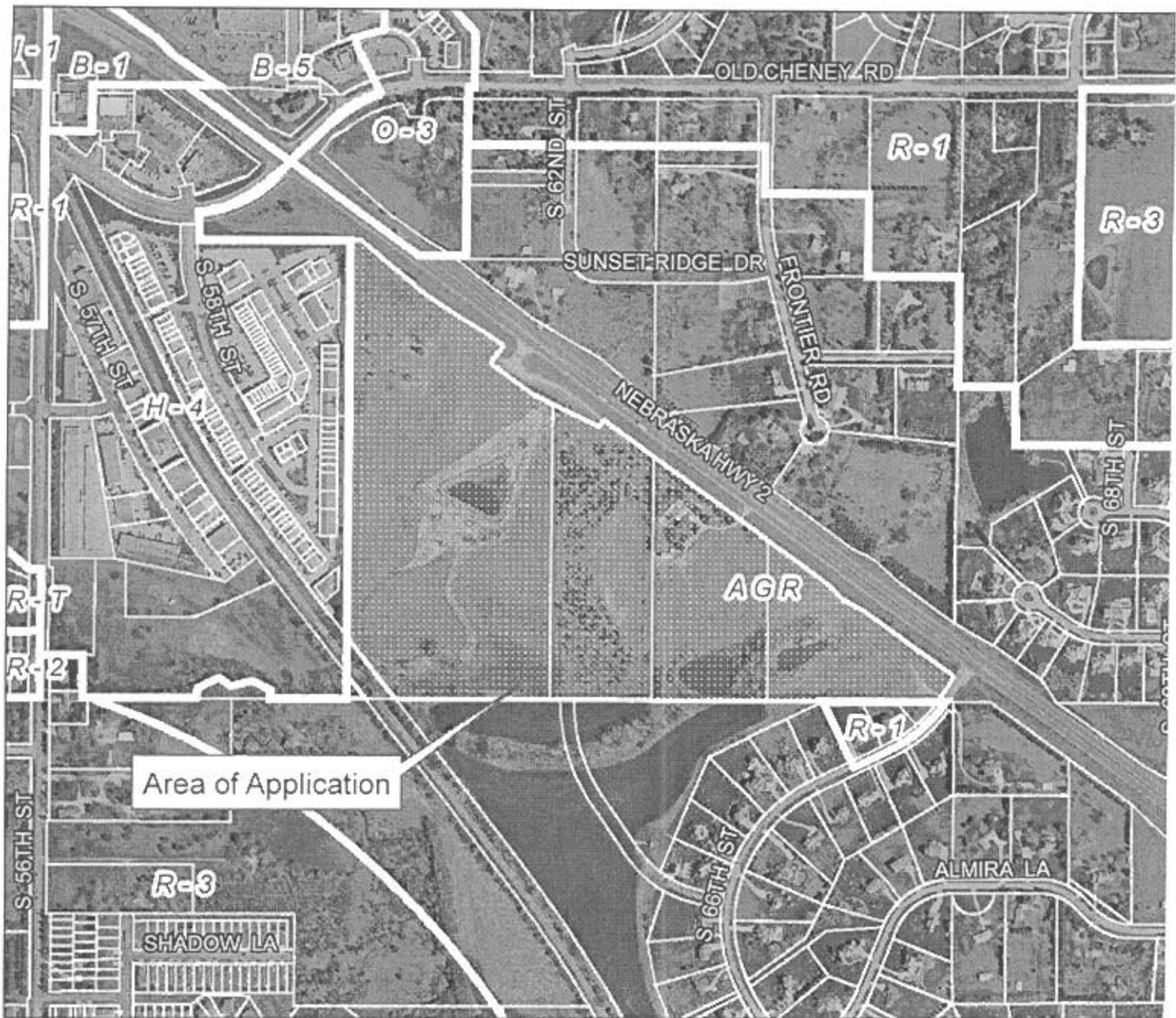
Sunderman will support getting rid of the gate and having the one-way street running east to west.

Motion to Amend #2 carried 9-0: Carroll, Pearson, Marvin, Krieser, Sunderman, Carlson, Taylor, Larson and Bills-Strand voting 'yes'.

Pearson stated that she voted for the Comprehensive Plan Amendment, but she cannot support the Planned Unit Development without restricting the size of a single user for the reasons previously stated.

Motion #2 for conditional approval, as set forth in the staff report, with the amendments requested by the applicant, with amendment to Condition #1.1.11, failed 4-5: Marvin, Sunderman, Larson and Bills-Strand voting 'yes'; Carroll, Pearson, Krieser, Carlson and Taylor voting 'no'.

Motion #3: Carlson moved to deny, seconded by Pearson and carried 5-4: Carroll, Pearson, Krieser, Carlson and Taylor voting 'yes'; Marvin, Sunderman, Larson and Bills-Strand voting 'no'. This is a recommendation to the City Council.



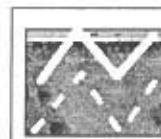
2002 aerial

Change of Zone #05026 Apple's Way PUD S. 66th & Hwy 2

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-7	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 16 T9N R7E



Zoning Jurisdiction Lines
City Limit Jurisdiction

Old Cheney Rd.



Pine Lake Rd.

PUD LEGAL DESCRIPTION

REMAINING PORTION OF OUTLOT "E", COUNTRY MEADOWS, AND LOTS 36, 88, 123, 155 AND 156 IRREGULAR TRACTS, ALL LOCATED IN THE NORTH HALF OF SECTION 16, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6th P.M., LINCOLN, LANCASTER COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 123; THENCE ON THE NORTH LINE OF SAID LOT 123, ON AN ASSIGNED BEARING OF N 89°57'28"E, A DISTANCE OF 50.79'; THENCE ON THE SOUTHERLY RIGHT OF WAY LINE OF NEBRASKA HIGHWAY #2, FOR THE NEXT THIRTEEN (13) COURSES; S 48°25'20"E 359.86'; THENCE S 59°21'17"E 330.85'; THENCE S 54°33'46"E 70.04'; THENCE S 35°30'08"W 90.51'; THENCE S 54°32'44"E 230.00'; THENCE S 85°06'38"E 315.35'; THENCE N 35°20'01"E 32.94'; THENCE S 54°36'32"E 267.53'; THENCE S 54°29'46"E 618.68'; THENCE S 54°29'48"E 307.34'; THENCE S 47°32'08"E 110.81'; THENCE S 62°59'47"E 90.95'; THENCE S 54°31'20"E 482.57', TO A POINT OF INTERSECTION WITH THE NORTHERLY RIGHT OF WAY LINE OF SOUTH 66th STREET, SAID POINT BEING THE EASTERLY MOST POINT OF SAID REMAINING PORTION OF OUTLOT "E"; THENCE ON THE EASTERLY LINE OF SAID OUTLOT "E" AND THE NORTHERLY RIGHT OF WAY LINE OF SOUTH 66th STREET FOR THE NEXT THREE (3) COURSES; THENCE S 0°05'02"W 10.53'; THENCE S 35°06'21"W 127.02', TO A POINT ON CIRCULAR CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 513.12' AND A CENTRAL ANGLE OF 0°13'28"; THENCE ON THE CHORD OF SAID CURVE, S 34°54'22"W 2.01', TO THE SOUTHEAST CORNER OF SAID OUTLOT "E"; THENCE ON THE SOUTH LINE OF SAID OUTLOT "E", N 89°58'34"W 733.95'; THENCE ON THE SOUTH LINE OF SAID LOT 36, N 89°56'43"W 500.47'; THENCE ON THE SOUTH LINE OF SAID LOTS 88 AND 155, N 89°55'11"W 1125.77', TO A POINT ON THE SOUTHWESTERLY LINE OF SAID LOT 88; THENCE ON SAID SOUTHWESTERLY LINE, N 37°44'12"W 316.98', TO A POINT ON THE WEST LINE OF SAID LOT 88; THENCE ON THE WEST LINE OF SAID LOTS, 88 AND 123, N 0°01'47"W 1712.95', TO THE POINT OF BEGINNING, SAID TRACT CONTAINING AN AREA OF 61.70 ACRES, MORE OR LESS.

RESIDENTIAL LEGAL DESCRIPTION (R-1 UNDERLYING ZONE)

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF OUTLOT "E" COUNTRY MEADOWS, A PORTION OF LOT 36 I.T., AND A PORTION OF LOT 155 I.T., ALL LOCATED IN THE NORTH HALF OF SECTION 16, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, STATE OF NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 155 I.T., SAID POINT BEING THE SOUTHEAST CORNER OF LOT 88 I.T., SAID POINT BEING THE TRUE POINT OF BEGINNING, THENCE NORTH ALONG A WEST LINE OF SAID LOT 155 I.T., ON AN ASSUMED BEARING OF NORTH 00 DEGREES 03 MINUTES 13 SECONDS WEST, A DISTANCE OF 280.07 FEET TO A POINT, THENCE NORTH 35 DEGREES 30 MINUTES 14 SECONDS EAST, A DISTANCE OF 864.58 FEET TO A POINT, OF INTERSECTION WITH A NORTHEAST LINE OF LOT 36 I.T., THENCE SOUTH 54 DEGREES 29 MINUTES 46 SECONDS EAST ALONG A NORTHEAST LINE OF SAID LOT 36 I.T., A DISTANCE OF 507.10 FEET TO THE NORTHEAST CORNER OF SAID LOT 36 I.T., SAID POINT BEING THE NORTHWEST CORNER OF OUTLOT "E" COUNTRY MEADOWS, THENCE SOUTH 54 DEGREES 29 MINUTES 48 SECONDS EAST ALONG A NORTHEAST LINE OF SAID OUTLOT "E", A DISTANCE OF 307.34 FEET TO A NORTH CORNER OF SAID OUTLOT "E", THENCE SOUTH 47 DEGREES 32 MINUTES 08 SECONDS EAST ALONG A NORTHEAST LINE OF SAID OUTLOT "E", A DISTANCE OF 110.81 FEET TO A NORTH CORNER OF SAID OUTLOT "E", THENCE SOUTH 62 DEGREES 59 MINUTES 47 SECONDS EAST ALONG A NORTHEAST LINE OF SAID OUTLOT "E", A DISTANCE OF 90.95 FEET TO A NORTH CORNER OF SAID OUTLOT "E", THENCE SOUTH 54 DEGREES 31 MINUTES 20 SECONDS EAST ALONG A NORTHEAST LINE OF SAID OUTLOT "E", A DISTANCE OF 482.57 FEET TO A NORTHEAST CORNER OF SAID OUTLOT "E", THENCE SOUTH 00 DEGREES 05 MINUTES 02 SECONDS WEST ALONG A EAST LINE OF SAID OUTLOT "E", A DISTANCE OF 10.53 FEET TO A EAST CORNER OF SAID OUTLOT "E", THENCE SOUTH 35 DEGREES 06 MINUTES 21 SECONDS WEST ALONG A SOUTHEAST LINE OF SAID OUTLOT "E", A DISTANCE OF 127.02 FEET TO A POINT OF CURVATURE OF A NON TANGENT CURVE, THENCE ALONG A CURVE IN A CLOCKWISE DIRECTION, HAVING A DELTA ANGLE OF 00 DEGREES 13 MINUTES 28 SECONDS, A RADIUS OF 513.12 FEET, A ARC LENGTH OF 2.01 FEET, A CHORD BEARING OF SOUTH 34 DEGREES 54 MINUTES 22 SECONDS WEST ALONG A SOUTHEAST LINE OF SAID OUTLOT "E", AND A CHORD DISTANCE OF 2.01 FEET TO A THE SOUTHEAST CORNER OF SAID OUTLOT "E", THENCE NORTH 89 DEGREES 58 MINUTES 34 SECONDS WEST ALONG THE SOUTH LINE OF SAID OUTLOT "E", A DISTANCE OF 733.95 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT "E", SAID POINT BEING THE SOUTHEAST CORNER OF LOT 36 I.T., THENCE NORTH 89 DEGREES 56 MINUTES 43 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 36 I.T., A DISTANCE OF 500.47 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT "E", SAID POINT BEING THE SOUTHEAST CORNER OF LOT 155 I.T., THENCE NORTH 89 DEGREES 55 MINUTES 11 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 155 I.T., A DISTANCE OF 412.00 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 982,931.36 SQUARE FEET OR 22.5650 ACRES, MORE OR LESS.

COMMERCIAL LEGAL DESCRIPTION (B-2 UNDERLYING ZONE)

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF LOT 123 I.T., LOT 156 I.T., LOT 88 I.T., A PORTION OF LOT 155 I.T., AND A PORTION OF LOT 36 I.T., ALL LOCATED IN THE NORTH HALF OF SECTION 16, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, STATE OF NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 88 I.T., SAID POINT BEING THE SOUTHWEST CORNER OF SAID LOT 155 I.T., SAID POINT BEING THE TRUE POINT OF BEGINNING, THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 88 I.T., ON AN ASSUMED BEARING OF NORTH 89 DEGREES 55 MINUTES 11 SECONDS WEST, A DISTANCE OF 713.76 FEET TO A SOUTHWEST CORNER OF SAID LOT 88 I.T., THENCE NORTH 37 DEGREES 44 MINUTES 12 SECONDS WEST ALONG A SOUTHWEST LINE OF SAID LOT 88 I.T., A DISTANCE OF 316.98 FEET TO A WEST CORNER OF SAID LOT 88 I.T., THENCE NORTH 00 DEGREES 01 MINUTES 47 SECONDS WEST ALONG A WEST LINE OF SAID LOT 88 I.T., AND THE WEST LINE OF LOT 123 I.T., A DISTANCE OF 1,712.95 FEET TO THE NORTHWEST CORNER OF SAID LOT 123 I.T., THENCE NORTH 89 DEGREES 57 MINUTES 28 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 123 I.T., A DISTANCE OF 50.79 FEET TO A NORTH CORNER OF SAID LOT 123 I.T., THENCE SOUTH 48 DEGREES 25 MINUTES 20 SECONDS EAST ALONG A NORTHEAST LINE OF SAID LOT 123 I.T., A DISTANCE OF 359.86 FEET TO A NORTH CORNER OF SAID LOT 123 I.T., THENCE SOUTH 59 DEGREES 21 MINUTES 17 SECONDS EAST ALONG A NORTHEAST LINE OF SAID LOT 123 I.T., AND A NORTHEAST LINE OF LOT 156 I.T., A DISTANCE OF 330.85 FEET TO A NORTH CORNER OF SAID LOT 156 I.T., THENCE SOUTH 54 DEGREES 33 MINUTES 46 SECONDS EAST ALONG A NORTHEAST LINE OF SAID LOT 156 I.T., A DISTANCE OF 70.04 FEET TO A NORTH CORNER OF SAID LOT 156 I.T., THENCE SOUTH 35 DEGREES 30 MINUTES 08 SECONDS WEST ALONG A EAST LINE OF SAID LOT 156 I.T., A DISTANCE OF 90.51 FEET TO A NORTH CORNER OF SAID LOT 156 I.T., THENCE SOUTH 54 DEGREES 32 MINUTES 44 SECONDS EAST ALONG A NORTHEAST LINE OF SAID LOT 156 I.T., A DISTANCE OF 230.00 FEET TO A NORTH CORNER OF SAID LOT 156 I.T., THENCE SOUTH 65 DEGREES 06 MINUTES 38 SECONDS EAST ALONG A NORTHEAST LINE OF SAID LOT 156 I.T., AND A NORTHEAST LINE OF LOT 155 I.T., A DISTANCE OF 315.35 FEET TO A NORTH CORNER OF SAID LOT 155 I.T., THENCE NORTH 35 DEGREES 20 MINUTES 01 SECONDS EAST ALONG A NORTHWEST LINE OF SAID LOT 155 I.T., A DISTANCE OF 32.94 FEET TO A NORTH CORNER OF SAID LOT 155 I.T., THENCE SOUTH 54 DEGREES 36 MINUTES 32 SECONDS EAST ALONG A NORTHEAST LINE OF SAID LOT 155 I.T., A DISTANCE OF 267.53 FEET TO THE NORTHEAST CORNER OF SAID LOT 155 I.T., SAID POINT BEING THE NORTHWEST CORNER OF LOT 36 I.T., THENCE SOUTH 54 DEGREES 29 MINUTES 46 SECONDS EAST ALONG A NORTHEAST LINE OF SAID LOT 36 I.T., A DISTANCE OF 111.58 FEET TO A POINT, THENCE SOUTH 35 DEGREES 30 MINUTES 14 SECONDS WEST, A DISTANCE OF 864.58 FEET TO A POINT OF INTERSECTION WITH THE WEST LINE OF LOT 155 I.T., THENCE SOUTH 00 DEGREES 03 MINUTES 13 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 155 I.T., SAID LINE BEING A EAST LINE OF LOT 88 I.T., A DISTANCE OF 280.07 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 1,704,570.45 SQUARE FEET OR 39.1315 ACRES, MORE OR LESS.

1.400 TOTAL S.A. MAX. HOUR TRIPS



APPLE'S WAY PLANNED UNIT DEVELOPMENT COVER SHEET

REVIEWER'S COMMENTS
DATE: 10/1/81 BY: [Signature]

ENGINEER'S CERTIFICATE
I, the undersigned, being a duly Licensed Professional Engineer in the State of Maryland, do hereby certify that the foregoing is a true and correct copy of the original as submitted to me for my review and approval.

APPROVAL
DATE: 10/1/81 BY: [Signature]

ADDITIONAL
DATE: 10/1/81 BY: [Signature]

REVIEWER'S
DATE: 10/1/81 BY: [Signature]

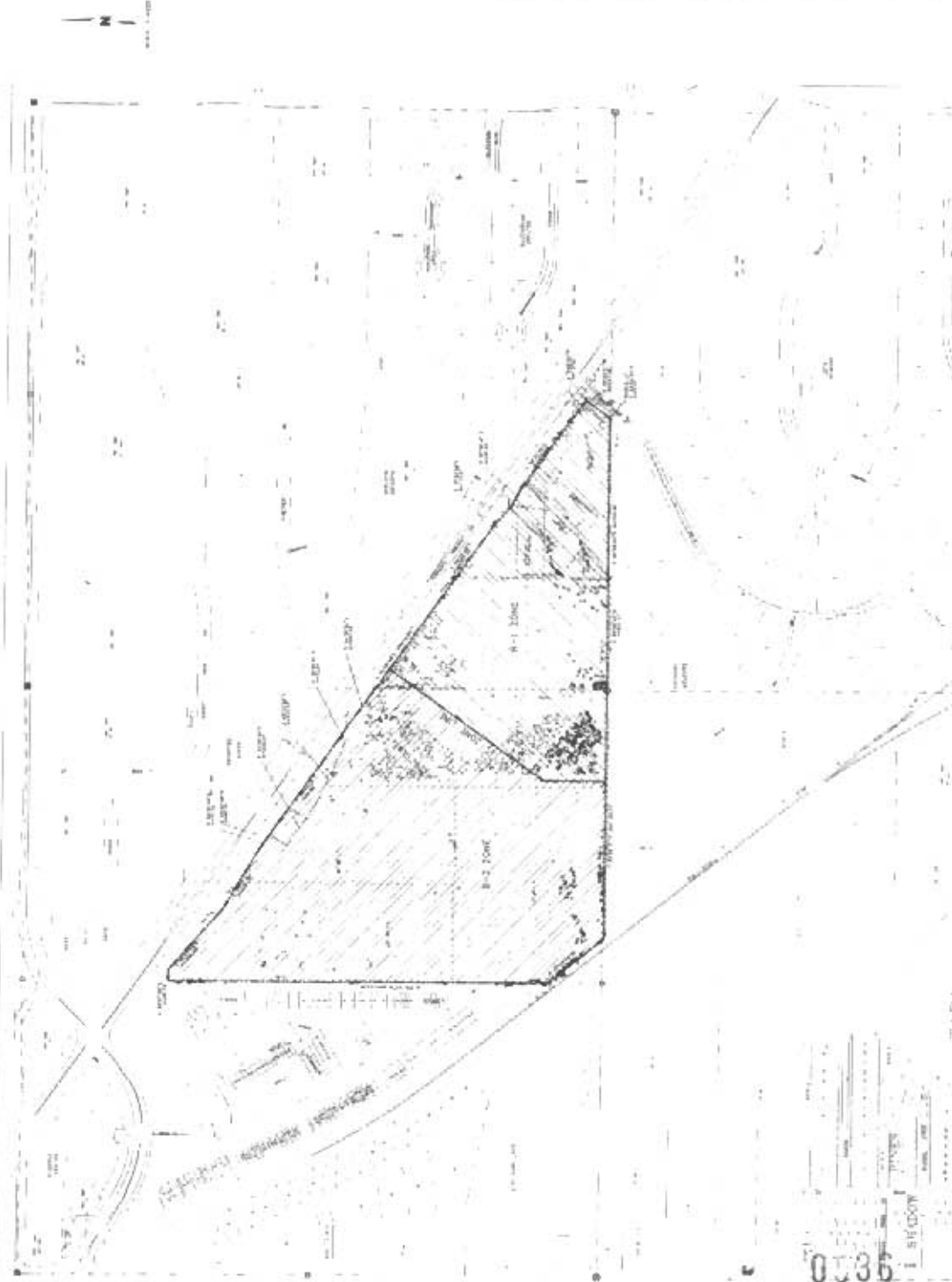
LEGAL DESCRIPTION
[Detailed legal description of the property, including references to previous surveys and maps.]

REVISIONS
[Table of revisions with columns for date, description, and initials.]

COMMITTEE LEGAL DESCRIPTION (IN 1 UNDERLYING ZONE)
[Detailed legal description of the property, including references to previous surveys and maps.]

GENERAL NOTES

1. The proposed development is shown on the attached site plan.
2. The proposed development is shown on the attached site plan.
3. The proposed development is shown on the attached site plan.
4. The proposed development is shown on the attached site plan.
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19. The proposed development is shown on the attached site plan.
20. The proposed development is shown on the attached site plan.



0036

TARA

LAW OFFICES OF
CLINE, WILLIAMS, WRIGHT, JOHNSON & OLDFATHER, L.L.P.

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RICHARD P. JEFFRIES, COUNSEL

March 17, 2005

Hand Delivery

Mr. Marvin Krout, Director of Planning
Lincoln City/Lancaster County Planning Department
555 South 10th Street, Suite 213
Lincoln NE 68508

Re: Apple's Way Planned Unit Development
Our File: MCB07-RE001

Dear Mr. Krout:

I represent Apple's Way, L.L.C., AND Uno Properties, Inc., which are the owners of the property generally located at South 66th Street and Highway 2, and am pleased to present to the City of Lincoln a Planned Unit Development Application for the development of this property generally located west of South 66th and Highway 2. The parcel contains approximately 62 acres. As a part of the Planned Unit Development Application, my client seeks to change the underlying zone of approximately 22.5 acres to the R-1 Residential District. The balance of the property will be changed to a B-2 underlying zone, containing approximately 39.1 acres. This letter shall also serve as the purpose statement of the submittal.

Residential

The enclosed site plan reflects 32 larger residential lots located within the R-1 Residential District. The residential lots located on the eastern portion of the subject property are designed to be compatible and very similar to the large residential lots located within the Country Meadows neighborhood adjacent to the property to the south. The site plan for the residential portion of the planned unit development envisions the retention of the existing home at the top of the hill adjacent to Highway 2. The site plan envisions retention of the existing hill, the ponds, and tree stands to serve as amenities for the residential development and provide buffering for the Country Meadows subdivision.

March 17, 2005

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Commercial

The commercial portion of the site reflects approximately 221,900 square feet of building area. The site plan reflects but does not include any square footage for the garden center adjacent to the larger retail building. We were unclear as to how much of the garden center is to be included in the floor area calculation due to the fact of its open-air construction and it would be utilized by the retailer for seasonal sales. Further, during my client's discussions with the Country Meadows neighborhood, we have committed that the commercial area will not contain more than 235,000 square feet plus or minus 5% to provide some flexibility for locating the ultimate users. The quantity of floor area within the commercial portion of the planned unit development envisions a floor-to-area ratio of less than 15%. In the event that the garden center is properly includable in calculation for the floor area, my client would retain the right to adjust the square footage of the other buildings within the commercial area to meet the commitment made to the Country Meadows Neighborhood Association.

Over the last one-and-a-half to two-year time period, Apple's Way has had multiple meetings with the Country Meadows neighborhood and the committee established by the Neighborhood Association to work with us on developing this site plan. We most recently had a meeting on March 15, which was very productive. We are at the point of discussions with the Country Meadows Neighborhood Association where we would like to obtain the City's review and input.

The street within the residential portion is labeled as a private street. In recognition of city policy that neighborhoods be connected, the residential portion is connected to South 66th. The Country Meadows Neighborhood has expressed concern about commercial traffic entering their neighborhood. Thus, the site plan reflects a restricted access gate at the western edge of the residential portion. This gate is intended to permit westbound traffic to enter the commercial portion. The neighborhood has expressed a desire to have access to a traffic signal on Highway 2 to permit westbound traffic to enter Highway 2. The access gate is designed to restrict the commercial traffic from entering the residential portion and ultimately the Country Meadows subdivision.

To that end, I enclose the following:

1. Change of Zone Application seeking to change the eastern portion to the R-1 Residential District;
2. Change of Zone Application seeking to change the western portion to the B-2 District;
3. Change of Zone Application seeking to overlay a planned unit development over the entire site;

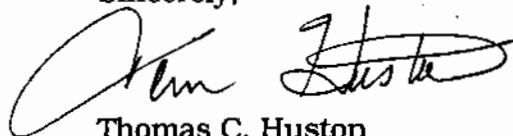
March 17, 2005

Page 3

4. Twenty copies of the cover sheet containing the change of zone information and of the site plan;
5. Three copies of the traffic study prepared by Olsson Associates so that two copies can be retained by the Planning Department and one copy can be provided to the Department of Public Works; and
6. A check made payable to the City of Lincoln in the amount of \$2,410. The application fee as required by the Lincoln Municipal Code would require the payment of the sum of \$370 for the change of zone to the R-1 District, \$740 for the change of zone to the B-2 district, and \$1,300 for the planned unit development fee.

We look forward to continuing the dialogue with the City of Lincoln on this important project. Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Huston", written over a horizontal line.

Thomas C. Huston
For the Firm

Enc.

c: Bill Langdon

Bennie McCombs

Royce Mueller, Country Meadows Neighborhood Association

Mark Hunzeker

Peter Katt



Lincoln Parks & Recreation

Memo

To: Brian Will, Planning Department
From: Mark Canney, Parks & Recreation
Date: March 30, 2005
Re: Apple's Way CZ05026

Staff members of the Lincoln Parks and Recreation Department have conducted a plan review of the above-referenced application/proposal and the following comments:

1. All outlot areas to be maintained by the developer and/or future homeowner's association.
2. All landscaped boulevards and medians must be maintained by the developer and/or future homeowner's association.
3. Street Trees need to be assigned by the Forestry Department. Please contact the Forestry Department at 441-7036 regarding Street Tree Assignments.
4. Impact fees to be collected in lieu of park land.
5. Pine Lake Park serves as the neighborhood Park.

If you have any additional questions, comments or concerns, please feel free to contact me at 441-8248.
Thank you.

**LINCOLN-LANCASTER COUNTY HEALTH DEPARTMENT
INTER-OFFICE COMMUNICATION**

TO: Brian Will	DATE: April 1, 2005
DEPARTMENT: Planning	FROM: Chris Schroeder
ATTENTION:	DEPARTMENT: Health
CARBONS TO: EH File EH Administration	SUBJECT: Apple's Way PUD CZ #05026

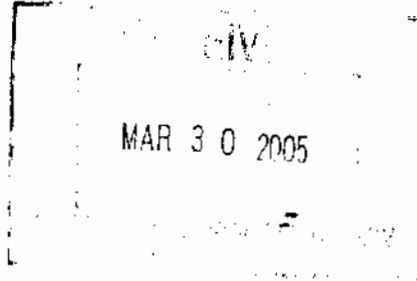
The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the proposed development with the following noted:

- The LLCHD advises that noise pollution can be concern when locating residential areas adjacent to commercial uses. Lincoln Municipal Code (LMC) 8.24 Noise Control Ordinance does address noise pollution by regulating source sound levels based upon the receiving land-use category or zoning. However, the LLCHD does have case history involving residential uses and abutting commercial uses in which the commercial source does comply with LMC 8.24, but the residential receptors still perceive the noise pollution as a nuisance. The LLCHD advises against locating loading docks, trash compactors, etc. adjacent to residential zoning. Therefore, creative site design should be utilized to locate potential sources of noise pollution as far as possible from residential zoning.
- The proposed development is located within the Country Meadows Wellhead Protection Area. Best management practices (BMP) should be utilized to decrease the risk of groundwater contamination. For example, being conscientious regarding the use of lawn chemicals/fertilizers and ensuring the proper the storage of chemicals and/or fuels.
- All wind and water erosion must be controlled during construction. The Lower Platte South Natural Resources District should be contacted for guidance in this matter.
- During the construction process, the land owner(s) will be responsible for controlling off-site dust emissions in accordance with Lincoln-Lancaster County Air Pollution Regulations and Standards Article 2 Section 32. Dust control measures shall include, but not limited to application of water to roads, driveways, parking lots on site, site frontage and any adjacent business or residential frontage. Planting and maintenance of ground cover will also be incorporated as necessary.

INTER-DEPARTMENT COMMUNICATION



DATE: March 29, 2005
TO: Brian Will, City Planning
FROM: Sharon Theobald
Ext 7640
SUBJECT: DEDICATED EASEMENTS
DN# 61S-62E



CZ# 05026

Attached is the cover sheet for Apple's Way P.U.D.

In reviewing the dedicated transmission line or other electrical easements shown on this plat, LES does not warrant, nor accept responsibility for the accuracy of any such dedicated easements.

ALLTEL, Time Warner Cable, and the Lincoln Electric System will require the additional easements marked in red on the map.

Sharon Theobald

ST/ss
Attachment
c: Terry Wiebke
Easement File

0043

M e m o r a n d u m

To: Brian Will, Planning Department

From: Chad Blahak, Public Works and Utilities
Dennis Bartels Public Works and Utilities

Subject: Apple's Way PUD

Date: April 7, 2005

cc: Randy Hoskins
Roger Figard
Kelly Sieckmeyer
Marvin Krout
Ray Hill

Engineering Services has reviewed the submitted plans for the Apple's Way PUD, located south and west of Highway 2 between Old Cheney Road and South 66th Street. Public Works recommends denial of this application. Comments are as follows:

- This development as proposed consists of a home improvement store, specialty retail, quality restaurant, garden center, auto parts sales store, drive-in bank and 40 units of single family detached houses.

The traffic impact study identifies numerous off-site improvements required to accommodate the projected increase in traffic volumes. However this area is designated as urban residential in the current Comprehensive Plan. This designation as well as other uses along the Highway 2 Corridor which are reflected in the current Comprehensive Plan are a direct result of the southeast Lincoln Highway 2 subarea study. This subarea study was conducted in an attempt to determine the amount of commercial and residential mix this corridor could sustain and still operate at an acceptable level of service. The Apple's Way proposal as previously stated does not conform to the current Comprehensive Plan or the land use assumed for this area in the subarea study. Therefore, approval of this proposal would add approximately 11,430 additional vehicular trips per day to this corridor versus the projected 2,500 if this development conformed to the Comprehensive Plan. The traffic impact study does not show volumes on Highway 2 that are unacceptable in 2015. However this study only assigns traffic volumes thru the year 2015. These additional trips added to Highway 2 will diminish the roadway capacity we expected to have in the year 2025 and will add to the potential need to add additional thru lanes on Highway 2. In a community unwilling to build wider roads, these deviations from planned land uses are what exacerbates the traffic problems we are experiencing.

0044

As we further degrade the functionality of Highway 2 by approving more intense land uses

that require additional traffic signals and access points, we will reach levels of service that will require additional thru lanes. If the requested zone change is approved, it will be difficult to defend future zone changes that will increase projected traffic or to enforce existing approved trip caps that are in place to maintain the capacity of the Highway 2 corridor.

- If this application is approved, specific detailed plans meeting preliminary plat submittal requirements will need to be submitted and administratively approved prior to the approval of any final plats in this PUD. These plans must be in accordance with all design standards unless waived by this generic PUD. Also, the following conditions should be required.
- Currently, funding for additional thru lanes on Highway 2 is not planned. In addition, numerous locations such as Highway 2 at 56th Street and also at Old Cheney are shown as currently warranting improvements. Since the City is experiencing a funding gap, we would require the developer to be responsible for all costs associated with the off-site improvements.
- Related to the traffic study itself additional concerns are as follows:
 1. The closure of the private roadway which bisects the commercial and residential area will likely result in additional trips on Highway 2 between 66th and Yankee Hill Road.
 2. Increase left turn storage on Main Site Drive as it is likely that trips currently entering Old Cheney Road via 58th will be redistributed back to Main Site as volumes on Old Cheney increase and gaps are reduced.
 3. 58th at Old Cheney should be restricted to left-in right-out prior to a traffic signal being installed at this intersection.
- Provisions to extend a street from this project to South 56th Street should be shown on this plan. This connection would not eliminate the adverse effects of this commercial development on the Highway 2 corridor, but it would reduce the effects.

Marvin S Krout

05/03/2005 03:38 PM

To: Planning_PC Members

cc: bwill@ci.lincoln.ne.us, jwalker@ci.lincoln.ne.us,

mhunzeker@pierson-law.com, thuston@clinetwilliams.com

Subject: Apple's Way hearing -- discrepancies

Jon Carlson asked me to let the Planning Commission know of any discrepancies that I heard last week between the testimony by the applicants' agents on this request and the information available to staff:

1. Corridor Preservation. The Comprehensive Plan calls for "corridor preservation" for this section of Highway 2. One of the agents claimed that their proposal does not violate this provision, because the term is defined in state statutes as preserving right of way and controlling access, and they are doing both. However, the Plan recognizes that Highway 2 plays a special role by carrying the heaviest volumes of any city street, and that will still be true after construction of a South Beltway. Public Works is intending to undertake a study of the corridor from 9th Street to 66th Street, with the objective of preserving Highway 2 as a high-speed expressway with more limited access than a typical arterial street. Adding another traffic signal in this corridor is contrary to that objective.

In addition, the Southeast Subarea Plan is a part of the Comprehensive Plan. The subarea plan calls for protecting this corridor aesthetically as well as in terms of traffic capacity, because it is an important entryway into the city, and calls for special setbacks and rejecting the extension of commercial zoning that would provide a "strip" appearance.

2. Precedent. One of the agents claimed that the traffic improvements to be made by the applicants will mitigate the impact of the proposed development and result in acceptable traffic service. First, the net effect of the additional traffic mitigated by traffic improvements is a level of service that is worse than today, and does not meet the desirable service level established in the Comprehensive Plan. If the same improvements were made someday by the City/State, but the traffic from this development was one-fourth or one-fifth what is being proposed, the level of service would be improved. Second, the agents did not tell you what we know from experience to be the case: that once you allow more traffic at one site along this corridor, it becomes a precedent that will be used to justify similar requests up and down the length of the corridor. We have continuing discussions with several property owners in this corridor who also would like to amend the Plan to intensify the proposed land use, which would further add to traffic on Highway 2.

3. Thwarting economic development. One of the agents claimed that this project is important to promote continued economic development. It is important in all of the Planning Commission's work to distinguish between "primary" economic activities and "local-serving" businesses. Kawasaki and Ameritas and Talent Plus are examples of primary activities -- providing employment that could be relocated to other communities, and which bring new wealth into the community. Home Depot and Walmart and Menard's are local-serving businesses -- they provide opportunities for households who live and work in and around Lincoln to spend some of their money on goods and services. You can expect that the marketplace will generate businesses to compete with each other and serve these local needs if we provide sufficient suitable sites for those businesses to locate.

We want the tax base and jobs that are generated by local-serving businesses as well as primary activities, and we want a good variety of goods and services from which to choose. But local-serving businesses do not add significantly to the wealth of the community. If Lowe's enters the Lincoln market, it will need to take away some of its competitors' business, and both Lowe's and its competitors will hope to capture a share of additional spending as the City grows -- as it attracts new primary activities and the additional people employed in those activities need paint and light fixtures and the like. Lowe's may offer a couple of brands of paint or light fixtures that are not currently available at their competitors' stores, which may result in a very small amount of local expenditures now "leaking" to Omaha or Kansas City or online.

4. Protecting Country Meadows from cut-through traffic. One of the agents suggested that the gate is needed to reduce "cut-through" traffic from the proposed commercial area that will otherwise use 66th Street to and from Old Cheney Road to avoid the congestion of Highway 2 and its intersections with 56th Street and Old Cheney. First, allowing a gate on a street dedicated to public access in a proposed

subdivision is unprecedented in this city, and contrary to the objective of "connectivity" in the Comprehensive Plan. Second, realize that a gate would only prevent traffic from leaving the commercial area and driving through the proposed new residential addition to access 66th Street -- traffic wanting to access the commercial area will still be able to drive from Old Cheney to 66th Street and through that proposed addition. Third, it would be faster and more direct for commercial traffic leaving the site to take the new 63rd Street to Highway 2, turn right on Highway 2 and then turn right again on 66th Street, rather than meandering through the proposed new residential addition to 66th Street. It is reasonable to expect 4-5 times more "cut-through" traffic on 66th Street if the applicants' proposal, which generates 11,500 trips per day, is approved, as opposed to the staff's suggestion of 250 dwelling units, which generates 2,500 trips per day.

5. Extending the proposed new street west. Staff feels strongly that, if development of an intensity that warrants a traffic signal at Highway 2 is approved for this site, the street through this property should extend across the site to the west property line. This will keep open the option for a future extension to 56th Street. An eventual connection to 56th Street can provide traffic relief to Highway 2 by providing another access point for the site in question, as well as for the Trade Center. It will also reduce the amount of cut-through traffic otherwise using 66th Street to and from Old Cheney Road.

One of the agents suggested that the applicants did not want to extend the new 63rd Street east because it would interfere with their desire to develop a "pedestrian-friendly" development by introducing the potential for more traffic entering and exiting at 56th Street. However, that is a weak argument; there are many ways to provide pedestrian-friendly commercial development on one side of this new proposed street, other than wrapping it around a cul-de-sac.

6. Bad math. One of the agents claimed that the traffic engineer was overstating the traffic impact of the proposed development by referring to 24-hour traffic volumes instead of peak hour volumes. The traffic engineer had suggested that by adding 11,500 more daily trips from the proposed development to the 14,000 existing daily trips on Highway 2, the capacity of Highway 2 was being reached. The agent attempted to disprove that statement by referring to the Prairie Lakes development planned at Highway 2 and 84th Street. He stated that since that development allows over 2 million square feet, then Highway 2 in the vicinity of that development would generate over 100,000 daily trips, which is impossible.

The agent failed to point out a major difference between Prairie Lakes and his clients' proposed development. Prairie Lakes traffic can utilize a road network that includes 84th Street, Yankee Hill-91st Street, and Pine Lake Road to avoid all or parts of Highway 2. Plus, the agent's estimate of traffic generation was more than twice as high as the "trip cap" that was established in the annexation agreement for Prairie Lakes.

7. Buffer for neighborhood. One of the selling points for Country Meadows, as presented by the agents, is the proposed addition with 32 large single family lots that would buffer Country Meadows from the commercial area. But the applicants did not agree to the staff suggestion that this buffer be guaranteed by requiring the residential development to precede the commercial development. The only other way to guarantee that homes are constructed in the buffer area is if Country Meadows obtains an ironclad private agreement restricting development in the buffer area. Otherwise, it is as likely as not that the applicants will return to the Planning Commission after the commercial development has begun, requesting a more intensive use for the buffer area because large lots for upscale homes next to a commercial development are just not marketable.

8. Common design theme for commercial. One of the agents indicated that they would be required to develop the commercial buildings with a common architectural theme. There are no conditions in the proposed PUD that govern the aesthetics of this project. Perhaps a private agreement with Country Meadows homeowners is contemplated.

Memorandum

TO: PLANNING COMMISSION MEMBERS

FROM: Tom Huston and Mark Hunzeker

DATE: May 9, 2005

RE: Apple's Way Hearing

At the Planning Commission hearing on April 27, the Planning Commission voted to defer taking any action on the Planned Unit Development filed on behalf of Apple's Way. At that point, the Planning Commission determined it wanted to hear the results of the vote of the Country Meadows neighborhood. Notwithstanding that fact, the Planning Director, Marvin Krout, elected to add to the public record with his own input. Due to the confusion on whether or not the public hearing was closed or whether it was going to be continued, we wanted to take the opportunity to set the record straight in case additional testimony was not going to be allowed at the Planning Commission hearing on May 11.

In his memo dated May 3, Mr. Krout addresses the following issues:

1. Corridor preservation

While we agree that the Comprehensive Plan calls for corridor preservation, we disagree with the staff's subjective interpretation of the intent of such a designation. Calling Highway 2 a high-speed expressway with more limited access than a typical arterial street ignores the present facts. The reality of the situation is that there is virtually a traffic signal every half-mile on Highway 2 from 91st Street on the east to Van Dorn Street on the west. There currently is no traffic signal between 70th Street and 56th Street, which is very problematic for the 58 homes located in Country Meadows. The Subarea Plan, with the staff's support, would permit the construction of not less than 250 homes on the Apple's Way site. Adding 250 homes to this area along Highway 2 without a traffic signal will result in chaos.

Further, the staff report for Apple's Way recognizes that the corridor protection involves largely the setbacks from Highway 2. Please refer to Site

Specific Condition No. 1.1.6 which requires that any parking areas and driveways be located 175 feet from the centerline of Highway 2, and any buildings be located 200 feet from such centerline. Apple's Way has agreed to this condition. The condition is identical to the setback existing for Appian Way both on the north and south sides of Highway 2, Pine Lake Plaza, and Willowbrook developments.

2. Precedent

The Planning Department is attempting to conjure a traffic nightmare while the Public Works Department report states that our traffic study puts traffic volumes on Highway 2 that are "not unacceptable". The fret and worry over what might happen in the year 2025 ignores the existing traffic studies done for Prairie Lakes and Willowbrook that show a need for six lanes on Highway 2 in the year 2025 no matter what is developed on the Apple's Way property.

3. Thwarting economic development

Mr. Krout attempts to distinguish between primary economic activities and local-serving businesses. This distinction is academic and ivory tower at best. It ignores the fact that commercial development on this property will involve the investment of millions of dollars, including the Lowe's store. Lowe's would not be investing the required sum if it thought the only business it could do in the City of Lincoln was that which it would be able to garner from the market share enjoyed by Menard's or Home Depot. Commercial development within Apple's Way will employ people and will raise sales tax and property tax revenues. If the Planning Department is suggesting that commercial development should be shut down except those primary economic activities like Kawasaki, Ameritas, or Talent+, the City will grind to a halt.

4. Protecting Country Meadows from cut-through traffic

The proposal of Apple's Way involves the use of a restricted access gate to prevent commercial traffic existing the commercial area of Apple's Way east through the residential neighborhood. It is not unprecedented in the City of Lincoln. The Bishop's Square development on South 27th Street has had a gate for many years. The gate involved for Apple's Way is not to create a "gated community", but only to control traffic. We have suggested a couple of alternatives such as a one-way street or a small radius roundabout. Mr. Krout also suggests that any benefit realized by the gate would be illusory. He is suggesting a cut-through traffic pattern that makes no sense at all. The vast

majority of the individuals that will follow the traffic pattern suggested by Mr. Krout are the existing residents of Country Meadows. Further, we should refresh your memory that Dennis Bartels from the Public Works Department suggested that if the property is developed as residential, it may be appropriate to make two connections to Country Meadows, utilizing the platted road across the Country Meadows outlot and close the median on Highway 2, requiring right-in, right-out traffic from Apple's Way, which will further complicate traffic issues for Country Meadows.

5. Extending the proposed new street west

Apple's Way had gone to the City with the suggestion of making the connection through Apple's Way to South 56th Street. However, the City asked us to stop the discussion. The City was concerned about the use of City-owned land, floodplain issues, and the cost of the road. The only reason the cost became germane is because of the City's insistence that the road be relocated so as to require a long bridge across the floodplain and the removal of an existing house on South 56th Street. When the City requested that we stop discussing the connecting road, the Apple's Way site plan was revised to a village concept, with parking and easy pedestrian access to and from all the commercial buildings on the site. We still retained access to the Lincoln Trade Center, which will help alleviate the congestion on Old Cheney Road at 58th Street.

6. Bad math

Mr. Krout attempts to leverage the total traffic count revealed in the Apple's Way traffic study into a doomsday scenario. The point remains that the Public Works Department report states that our traffic load upon Highway 2 would not result in unacceptable levels at year 2015. Please recall that the traffic study completed by Apple's Way assumes no south beltway would be constructed. Our traffic study indicates that there is capacity on Highway 2 and Apple's Way has agreed to construct improvements which will be needed on Highway 2 and affected intersections, even if the Apple's Way project does not develop.

7. Buffer for the neighborhood.

Mr. Krout suggested that Apple's Way cannot be trusted to build the residential portion. We have agreed multiple times with the Country Meadows neighborhood that we will enter into a binding agreement ensuring that the

residential development created as a buffer between Country Meadows and the commercial Apple's Way area will be constructed.

8. Common design theme for commercial

Again, we have agreed to a binding agreement with the Country Meadows neighborhood. We have shown schematic designs to the Country Meadows neighborhood of the "village" concept which the neighborhood found attractive. We have agreed to put these design covenants into written and enforceable terms with the Country Meadows neighborhood.

Apples Way Traffic Study:

Based on trip generation rates for the proposed commercial uses, the expected number of daily trips to the site is approximately 11,432 vehicles per day. This is based on the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, latest version. These 11,000 vehicles per day would not be assumed, however, to be all "new" trips on the roadway network. A significant portion of these vehicles are classified as "pass-by" trips, or those vehicles that are already on the adjacent street network that would visit the site. Based on the ITE Trip Generation Handbook, the percentage of pass-by trips for specific commercial uses is outlined. The percentage of pass-by trips for the proposed uses on the Apples way site varies from 10% to 40+%. By calculating the amount of expected pass-by trips and proposed new trips on the network, the following can be summarized:

Expected number of pass-by trips – 4,527

Expected number of new network trips – 6,905

Based on the distribution, 92% of the trips are from Highway 2, 21% to the east and 71% to the west

This equates to 4,900 additional trips on Highway 2 to the west and 2,000 additional trips on Highway 2 to the east.

Current 2004 ADT on Highway 2 from recent NDOR data is approximately 17,000 vpd in the vicinity of the development.

Year 2015 base ADT on Highway 2 is projected at 21,000.

Year 2015 ADT with Site, on Highway 2 is projected at 25,900. (west of site-highest volume)

With or without this proposed development, Highway 2 will require geometric modifications to implement dual left-turn lanes at major intersections by the year 2015, including Hwy 2/Old Cheney and Hwy 2/56th Street.

Highway 2 will most likely require additional through lane capacity in the long-term, with or without a beltway.



6003 Old Cheney Road
P.O. Box 82603 • Lincoln, Nebraska 68501-2603
(402) 434-3456 • FAX (402) 323-8999
www.westgatebank.com

Hwy 2 & Old Cheney Road
1204 West "O" Street
27th & Old Cheney
17th & South
70th & "A" Clocktower
84th & Holdrege
27th & Cornhusker

April 29, 2005

Tom Huston
Cline, Williams, Wright, Johnson & Oldfather, L.L.P.
1900 U.S. Bank Building
233 South 13th Street
Lincoln, NE 68508

RE: Change of Zone Application No. 05026

Dear Tom:

I am writing in support of the Change of Zone Application No. 05026 proposed by Apple's Way. West Gate Bank Center is located to the north of the subject property, and as a locally-owned community bank, we believe that development of the property in the manner proposed by Apple's Way would be good for Lincoln and consistent with sound planning. There are a number of benefits to the community that would be realized if the Apples Way change of zone is approved:

1. Good sized single family residential lots will be developed. Lincoln is in short supply of lots.
2. The Trade Center will gain a rear exit which leads to Highway 2 access. This will greatly help traffic flow, particularly during the 5:00 p.m. rush hour when it is difficult to get out of the Trade Center and onto Highway 2 without significant stacking and delays.
3. A signalized intersection at approximately 63rd and Highway 2 would help slow down westbound traffic (particularly trucks) that currently barrel through the Old Cheney light at dangerous speeds. A signalized intersection will be needed even if this property is developed entirely as residential.
4. Country Meadows would gain a signalized access to Highway 2.

The Apple's Way developer has attempted to strike a good balance between residential and commercial uses that addressed the concerns voiced by Country Meadows, the City and other interested parties. The change of zone would benefit Lincoln's economic development and expand our property and sales tax base.

Very truly yours,

Carl J. Sjulin
President

csjulin@westgatebank.com

LINCOLN TRADE CENTER OWNERS ASSOCIATION, INC.

6040 SOUTH 58TH STREET, SUITE 2 • LINCOLN, NEBRASKA 68516

(p.147&159 - Cont'd Public Hearing - 5/11/05)

Date: 06 April 2005

TO: Lincoln Planning Commission

AT: _____

FR: Dennis Lyon, Executive Director

RE: Apple's Way PUD (#05026)

Number of Pages: 1 Drawings: _____

Fax Number: _____

MESSAGE:

ALSO NOTE COURTESY COPIES LISTED BELOW

At a Special Meeting of the Lincoln Trade Center Board of Directors held 05 April, Bennie McCombs and Bill Langdon presented their proposal for a Change of Zone of the existing undeveloped property immediately east of the Lincoln Trade Center along Highway 2. Their presentation included the nature of the commercial development that was being proposed, the planning that is in progress regarding traffic, and the issues that impact the development along our contiguous property line.

For the record, the Board of Directors representing the Lincoln Trade Center Owners Association have no objection to the proposed Change of Zone as presented, believe that a traffic light at the intersection of Highway 2 and the proposed extension of 63rd Street is a critical element of this development, and that at least one and possibly two interconnections between the Lincoln Trade Center and the new commercial development could be beneficial. We will be willing to work with the developer in that regard.

In summary, we support the proposed Change of Zone.

cc: Directors
LTC Binder

Exhibit 1

2005 BOARD OF DIRECTORS

PRESIDENT
Jim Davidson
Phone 420-9715
Fax 420-9716

VICE PRESIDENT
Glyn Lacy
Phone 796-2647
Fax 796-2657

SECRETARY
Dr. James Free
Phone 420-6565
Fax 420-6566

TREASURER
David A. Drevo
Phone 420-6443
Fax 420-6443

DIRECTOR
Michael J. Britten, PhD
Phone 434-5000
Fax 434-5006

DIRECTOR
Dan Rudolph
Phone 423-2394
Fax 423-5726

EXECUTIVE DIRECTOR Dennis J. Lyon Phone 420-1600 Fax 420-1700

Chris Robinett Phone 489-9300 Fax 489-9314

ACCOUNTANT 854

Huston - Apple's Way Development

From: <roycemueller@aol.com>
To: <plan@lincoln.ne.gov>
Date: 4/12/2005 8:55:16 AM
Subject: Apple's Way Development
CC: <thuston@clinewilliams.com>, <rchristensen@secmut.com>, <StephenMLovell@neb.rr.com>, <mgenrich@neb.rr.com>, <Jolleen.Clymer@YMCA.NET>

Lincoln City/Lancaster County Planning Commission
555 South 10th Street
Lincoln, NE 68506

Re: Apple's Way PUD (#05026)

Dear Members of the Planning Commission:

I serve as the president of the Country Meadows Homeowners Association, which is located immediately adjacent to the site proposed for the Apple's Way Development. Our Neighborhood Association has been in discussions with the property owners regarding potential development of this area for the past several years. A number of projects have been submitted for consideration over this time period and we have generally been opposed to them due to the commercialization.

The latest proposal which is currently being reviewed has included a number of conceptual ideas which we feel would be of benefit to our neighborhood. These include: (1) the placement of a traffic light on Highway 2 which would allow us to gain westbound access in a safer fashion (2) Low density housing adjacent to the homes currently existing on 66th Street (3) a gate to prevent an increase in traffic flow through our neighborhood (4) design standards and covenants which would be complimentary to those we currently have in Country Meadows and (5) preservation of the trees and land topography which will help shield this neighborhood from the commercial portion.

While we have been opposed to other projects presented in the past, at this time we remain neutral on this proposed development and will continue to work with the developers and the city planners in trying to develop this area in a fashion which will be acceptable to all parties.

Sincerely,

Royce A. Mueller, President
Country Meadows Homeowners Association
April 11, 2005

Exhibit 2

0055

Exhibit "2"

Apple's Way Commitment DRAFT 4/19/05

Apple's Way, L.L.C., will legally obligate itself to the Country Meadows Neighborhood that the 62-acre tract located generally at 66th and Highway 2 will be developed in accordance with the following commitment. We have found many points of agreement over the last two years and want to reach agreement on the development site plan for the entire parcel.

A. Residential Commitment

1. **Number of Lots.** Apple's Way will not plat more than 32 residential lots. The lots south of the East-west private road have an average size of .525 acres. All lots abutting Country Meadows lots will be larger than one-half an acre.
2. **Covenants.** The Apple's Way lots will be made subject to restrictive covenants which will be substantially similar to Country Meadows covenants. The Apple's Way covenants will include minimum home size restrictions. The draft covenants can be modified to incorporate comments from the Association to conform these Apple's Way Covenants to the Country Meadows Covenants. The final covenants will be recorded after the final plat is recorded.
3. **Grade.** Apple's Way will to the extent possible under the City of Lincoln's subdivision ordinance retain the existing grade and hill within the residential area. The conceptual lot layout reflects the retention of the hill due to the fact that the existing home at the top of the hill is being retained.
4. **Detention Ponds.** Apple's Way will retain the existing 2 ponds in the residential area. As part of the grading and drainage plan of Apple's Way, the ponds will be enhanced. These ponds in question are located on the outlot in the residential portion of the property. The outlot is unbuildable and will remain open space.
5. **Trees.** To the greatest extent possible under the City of Lincoln's subdivision ordinance, the existing tree stands will be retained to preserve the natural buffering.
6. **Traffic Signal.** Apple's Way proposes to locate a traffic signal on Highway 2 at the main entrance to the Apple's Way development on 63rd Street, and is willing to pay for installation of the signal. Apple's Way will construct and install at its cost the right-turn deceleration lane from Highway 2 at 66th Street.
7. **Country Meadows Access.** Apple's Way will request that the commercial portion of the Apple's Way development be separated from the residential portion with a traffic control method to permit westbound traffic, but prevent eastbound traffic. We anticipate that the City of

{L0642828.2}

Lincoln will require the residential portion of Apple's Way to be connected to South 66th Street. The traffic control method would be intended to prevent commercial traffic from accessing Country Meadows while permitting Country Meadows residents to access the traffic signal on Highway 2. The traffic control methods are, in order of neighborhood preference:

- a. Restricted Access gate;
- b. One-way street from the east to the west; or
- c. Short radius roundabout.

Apple's Way will pursue these methods in the preference order of the neighborhood.

8. **Neighborhood Sign.** At the intersection of the Apple's Way east-west road and South 66th Street, either on Outlot A, Country Meadows 4th Addition, or on Apple's Way land, Apple's Way will assist the Country Meadows Homeowners Association in the installation of a monument-type entry sign for the Country Meadows neighborhood. Such assistance shall include an easement for such construction, if necessary, and the contribution of a sum not to exceed \$10,000 to construct the sign.

B. Commercial Development. The Commercial development requires approval of a planned unit development by the City. Apple's Way shall incorporate these terms as conditions of City approval.

1. **Site Plan.** The conceptual site plan reflects approximately 235,000 square feet of commercial development on the western portion of the Apple's Way property. Apple's Way agrees that it will not seek approval for any commercial development in excess of 246,750 square feet (5% leeway). Since not all of the uses have been committed, my client needs to retain some degree of flexibility. The commercial use is located on the western portion of the tract to use the distance, hill, trees, and residential structures to buffer the Country Meadows neighborhood from the commercial uses.

2. **Uses.** The commercial uses within Apple's Way will not include any fast-food uses, convenience stores, or stores with 24-hour operations, except occasional seasonal sales. The currently expected commercial development will include a home improvement store, restaurants, bank and a few specialty retailers.

3. **Design.** Apple's Way commits that the commercial development will be subject to common design requirements regarding facade materials to ensure a well-designed and attractive development. Architectural renderings attached reflect the design theme to be implemented for all commercial buildings. Apple's Way will not request any waivers of the 40' height limitation of the B-2 zoning district with one exception, which would not be supported by the neighborhood without further review. We anticipate but have not confirmed that we will need a waiver to permit the construction of the gabled cornice that frames the front door of the Lowe's building.

4. **Lighting.** Apple's Way will meet or exceed all of Lincoln's lighting design standards for commercial property to minimize any light intrusion from the commercial development on adjacent land uses. Fixtures will be of a type which direct light downward to avoid glare, and fixtures for parking lots on the eastern side of the commercial area will be directed toward the west.

Dear Members of the Planning Commission,

The Board Members of the Country Meadows Homeowners Association would like to submit the following statement.

Our neighborhood has been interested in the potential development of the Apple's way property for many years. Over the past two years, we have participated in several meetings with the developers in trying to define what may represent the best use of this property along with how this would impact our neighborhood.

We are currently in the process of establishing a neighborhood position regarding the proposed plan. We are scheduled to have the Planning Director discuss why the Planning Staff is against this project next week. Due to the importance of this issue and the long-term effect on the neighborhood, we are also obtaining legal council to assist us in this matter.

Due to the diversity of opinion regarding this project and our time restraints, we have already requested that the developer postpone their proposal in order to solidify our position as a neighborhood. Should they choose to advance the development plan, we would ask the Planning Commission to defer this request until later due to the reasons mentioned above.

Royce A. Mueller
President
Country Meadows Homeowners Association

4/27/05



SUMMARY OF MOTIONS TO AMEND

The Motions to Amend characterize the Site Specific Conditions as falling in one of five categories as follows:

1. Deletion to be addressed by the Preliminary Plat.

- 1.1.4. Required Screening
- 1.1.5. Location of Sidewalks
- 1.1.8. Intersection of South 66th Street and private road
- 1.1.9. Connection of the south cul-de-sac to Outlot F road
- 1.1.12. North cul-de-sac redesign for suitable lots
- 1.1.13. Retention of trees
- 1.1.14. Location of fire hydrants
- 1.1.15. Location of required LES easements
- 1.1.16. Reflect open spaces as outlots
- 1.1.19. Revisions to the satisfaction of Public Works

2. Acceptable Site Specific Conditions.

- 1.1.2. 50' buffer between commercial and residential
- 1.1.3. Layout of commercial nodes
- 1.1.6. Corridor protection setbacks
- 1.1.7. Acceptable signs - prohibit pole signs
- 1.1.17. Revision of site notes
- 1.1.18. Street names

3. Modification of Site Specific Conditions

- 1.1.1. Simplify the language to provide for a total of 235,000 square feet of commercial space and cap the uses within the space based upon the PM peak traffic count
- 1.1.11. Add a note to provide that the gate can be replaced with a one-way street, a round-about or other traffic-calming device

4. Deletion of Site Specific Conditions

- 1.1.10. South 63rd Street should be stubbed to the southwest corner of the plat.

5. New Site Specific Conditions

- 1.1.20. Add a note to prohibit fast-food operations and any 24-hour operations
- 1.1.21. Developer contributions

Motion to Amend No. 1
Change of Zone No. 05026 - Apple's Way Planned Unit Development

I hereby move to amend the Site Specific Conditions for change of Zone No. 05026 as contained in the Lincoln City/Lancaster County Planning Staff Report as follows (*italicized print denotes added language*):

Site Specific

1.1 Revise the plans as follows:

1.1.1 Show land use nodes in the B-2 Zone designating ~~no more than 50,000 square feet of office commercial floor area between South 63rd Street and the R-1 Zone, and no more than 185,000 square feet of commercial floor area west of South 63rd Street~~, not exceeding a total of 235,000 square feet overall. ~~Adjustment to allow office commercial floor area to be reallocated and used as commercial floor area west of South 63rd Street may be approved administratively.~~ *The uses to be designated within the total square footage approved shall not exceed the generation of a maximum of 1200 trips during the p.m. peak periods.*

1.1.4 Delete the phrase "Show all required screening", to be addressed with the Preliminary Plat via Section 2A below. Add a note that states: "Individual lot landscaping for all *office commercial* buildings will be reviewed at the time of building permits. Street trees to be reviewed at the time of final plat and assigned by Parks and Recreation".

1.1.5 Delete in its entirety (to be addressed with the Preliminary Plat via Section 2A below).

1.1.8 Delete in its entirety (to be addressed with the Preliminary Plat via Section 2A below).

1.1.9 Delete in its entirety (to be addressed with the Preliminary Plat via Section 2A below).

1.1.10 Delete in its entirety

1.1.12 Delete in its entirety (to be addressed with the Preliminary Plat via Section 2A below).

1.1.13 Delete in its entirety (to be addressed with the Preliminary Plat

via Section 2A below).

1.1.14 Delete in its entirety (to be addressed with the Preliminary Plat via Section 2A below).

1.1.15 Delete in its entirety (to be addressed with the Preliminary Plat via Section 2A below).

1.1.16 Delete in its entirety (to be addressed with the Preliminary Plat via Section 2A below).

1.1.19 Delete in its entirety (to be addressed with the Preliminary Plat via Section 2A below).

1.1.20 *Add a note that provides "No fast food restaurants with drive-through access or 24-hour operation uses shall be permitted in the B-2 zoning district of this planned unit development."*

1.1.21 *Add a note that provides: The Developer shall:*

- a. *At its cost and expense, install the improvements at its entrance on 63rd Street, including:*
 - *Traffic signal*
 - *400' right turn lane for eastbound traffic*
 - *200' left turn lane for westbound traffic*
 - *Removal of median break for existing house*
 - *Reconstruct existing median break*
- b. *At its cost and expense, install the improvements at 66th Street and Highway 2, including:*
 - *150' right turn deceleration lane for eastbound traffic*
- c. *Contribute the sum of \$425,000 to the City of Lincoln to pay for the off-site improvements recommended in the Traffic Impact Study prepared by Olsson Associates dated March 2005.*

Section 2A. The applicant is not requesting a waiver of the Preliminary Plat process. The approved Planned Unit Development shall be subject to the applicant submitting the required specific detailed plans, including the following information or a requested waiver therefor:

2A.1 All required screening (moved from 1.1.4).

2A.2 Provide sidewalks along both sides of all interior streets and private roadways and provide sidewalks from there to each commercial building (moved from 1.1.5)

2A.3 Show the intersection of the private roadway and South 66th Street moved south to a point where it uses the access easement granted as part of Country Meadows 4th Addition (moved from 1.1.8).

2A.4 The south cul-de-sac deleted and street connected to Outlot F in Country Meadows Addition (moved from 1.1.9 and will request waiver in the Preliminary Plat).

2A.5 Show the north cul-de-sac redesigned to create suitable building sites (moved from 1.1.12).

2A.6 Show the retention of existing trees, except those indicated for removal (moved from 1.1.13).

2A.7 Show five hydrants to the satisfaction of the Fire Department (moved from 1.1.14).

2A.8 Show required LES easements (moved from 1.1.15).

2A.9 Show open spaces/detention areas as outlots (moved from 1.1.16).

2A.9 Show revisions to the satisfaction of Public Works and Utilities (moved from 1.1.19).

Motion to Amend No. 2
Change of Zone No. 05026 – Apple's Way Planned Unit Development

I hereby move to amend the Site Specific Conditions for change of Zone No. 05026 as contained in the Lincoln City/Lancaster County Planning Staff Report as follows (*italicized print denotes added language*):

Site Specific

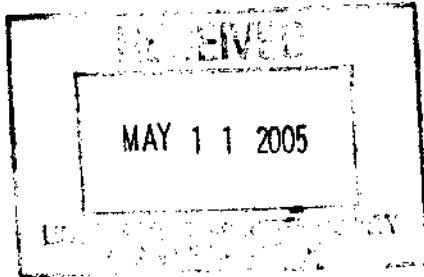
1.1.11 Delete and replace with: *The restricted access gate across the private roadway and separating the residential district from the commercial district may be replaced with a one-way street, a round-about or other traffic calming device to be approved administratively prior to the issuance of building permits.*

W. MICHAEL MORROW
TERRANCE A. POPPE
ROBERT R. OTTE
DAVID W. WATERMEIER
TIMOTHY C. PHILLIPS
JOEL G. LONOWSKI
JOSEPH E. DALTON
KELLY N. TOLLEFSEN
SCOTT E. TOLLEFSEN
NICHOLAS M. FROESCHL

**MORROW, POPPE, OTTE,
WATERMEIER & PHILLIPS, P.C.**
Attorneys at Law - A Limited Liability Organization

TELEPHONE: (402) 474-1731
FACSIMILE: (402) 474-5020

LOCATION:
201 N. 8th Street, Suite 300
Lincoln, Nebraska 68508
MAILING ADDRESS:
P.O. Box 83439
Lincoln, Nebraska 68501-3439
E-MAIL ADDRESS:
info@morrowpoppelaw.com
WEBSITE:
www.morrowpoppelaw.com



May 11, 2005

Mary Bills-Straud, Chair
And Members of the Lincoln City/Lancaster County
Planning Commission
555 South 10th Street
Lincoln, Nebraska 68508

HAND DELIVERED

RE: Apples Way Planned Unit Development
Country Meadows Home Owner Association
Comprehensive Plan Amendment 04010
Change of Zone 05026
Meeting of May 11, 2005

Good Morning:

I was recently retained to represent the Country Meadows Home Owner Association and have been authorized by the Board of the Association to comment on Comprehensive Plan Amendment 04010 and Change of Zone 05026 for development of the property described in the above referenced application. The Association wants to express its sincere appreciation to the City and the owners in making every effort and accommodation to the residents to help in the understanding the difficult and varied issues that are part of these applications. Thank you for allowing me to provide the following information and these remarks.

After meeting with the owners and the developer and their representatives the Association took a vote on the position that the Association should take as the application proceeded. However, after receiving the votes back there were several comments about the need for information from the City Planning and the Traffic Departments. At that point the Board determined that the City Planning and Traffic Departments should be invited to an Association meeting and the invitation was extended.

Page 2
May 11, 2005

City staff met with the Association last Tuesday, May 3, 2005. Following that meeting the Board hand delivered ballots to all of the neighbors in the Association. The Board reported to me that of the 60 residents in the area the vote was 20 to 19 against the project.

This has been difficult for the Association for a number of reasons that are consistent with how reasonable minds can differ over zoning and land use issues. At this point it would be fair to say there is not clear consensus by the home owners in the Association. The Board feels that there are a number of issues that may be clarified at the Planning Commission meeting today or before the City Council ultimately votes that could effect the attitude of the Association.

On behalf of the Association I want you to know they appreciate your consideration of the matter.

Sincerely,

MORROW, POPPE, OTTE,
WATERMEIER & PHILLIPS, P.C.

By: 
Robert R. Otte

RRO/bc

- c Marvin S. Krout, Director, via facsimile 402-441-6377
- c Mark Hunzeker, via facsimile, 402-476-7465
- c Thomas Huston, via facsimile, 402-474-5393
- c Royce Mueller, MD, via email

ITEM NO. 4.1a&b: COMP PLAN AMENDMENT NO. 04010
CHANGE OF ZONE NO. 05026
(p.147 & 159 - Cont'd Public Hearing - 4/27/05)

Dear Members of the Planning Commission,

The Board Members of the Country Meadows Homeowners Association would like to submit the following statement.

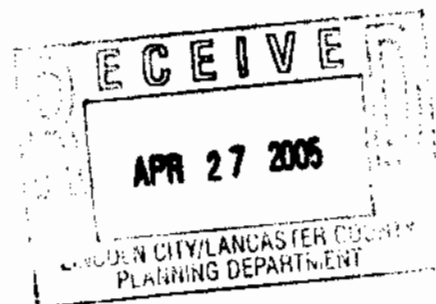
Our neighborhood has been interested in the potential development of the Apple's way property for many years. Over the past two years, we have participated in several meetings with the developers in trying to define what may represent the best use of this property along with how this would impact our neighborhood.

We are currently in the process of establishing a neighborhood position regarding the proposed plan. We are scheduled to have the Planning Director discuss why the Planning Staff is against this project next week. Due to the importance of this issue and the long-term effect on the neighborhood, we are also obtaining legal council to assist us in this matter.

Due to the diversity of opinion regarding this project and our time restraints, we have already requested that the developer postpone their proposal in order to solidify our position as a neighborhood. Should they choose to advance the development plan, we would ask the Planning Commission to defer this request until later due to the reasons mentioned above.

Royce A. Mueller
President
Country Meadows Homeowners Association

4/27/05



SUPPORT

ITEM NO. 4.2a&b: COMP PLAN AMENDMENT #04010
CHANGE OF ZONE #05026
(p.147&159 - Cont'd Public Hearing - 5/11/05)



Lflagtwet@aol.com
05/10/2005 04:16 PM

To plan@lincoln.ne.gov
cc FLAGTWET@INEBRASKA.COM
bcc
Subject Apples Way Development

To Whom It may Concern:

I am writing as a resident of the Country Meadows neighborhood to voice my opinion of the proposed development of the area known as Apples Way. As I understand the proposal, the developer wishes to place a commercial development on the western area and residential units on the eastern area nearer to my neighborhood.

I have lived in the neighborhood for seven years and in that time have seen and heard a lot of different development proposals for this area. I feel that this latest plan is by far the best that has been put forth by the developers. They have been very good about informing us of the plans and I feel that they want to work with us to make this something that we can both live with.

Our neighborhood seems to be evenly divided over supporting this development as evidenced by the latest vote which was 19 no and 17 yes with 24 households not voting. I feel that I needed to let you know that my wife and I do support the proposal as written. I believe it will be the best approach to dealing with this land and the residential area will serve as a nice buffer between our homes and the commercial area. I also feel that the commercial development will lead to a traffic signal on Hwy. 2 which we need in order to more easily access the highway from 66th Street.

Thank you for your consideration of this matter and I hope you will allow this development to progress.

Sincerely yours,

Lon and Lana Flagtwet
6741 S. 66th St.
Lincoln, NE 68516

0068



Terri Jex <tnjex@neb.rr.com>

To plan@lincoln.ne.gov

cc

05/10/2005 03:59 PM

bcc

Subject apples way development

To who it may concern , Just a quick note
to let you know we support the proposed development now before the
planning commision, concerning the development of apples way property
along Hyw 2. We feel like the developers have worked hard to help our
neighborhood find a good solution. They have modified plans over the
years, and worked with our association to come up with a good proposal.
We realize there will never be a ideal solution for everyone , but are
gratefull they have listened to our input so far. Thank you- Kent &
Terri Jex - Country Meadows



roycemueller@aol.com

04/12/2005 08:54 AM

To: plan@lincoln.ne.gov

cc: thuston@clnewilliams.com, rchristensen@secmut.com,
StephenMLovell@neb.rr.com, mgenrich@neb.rr.com,
Jolleen.Clymer@YMCA.NET

Subject: Apple's Way Development

Lincoln City/Lancaster County Planning Commission
555 South 10th Street
Lincoln, NE 68506

Re: Apple's Way PUD (#05026)

Dear Members of the Planning Commission:

I serve as the president of the Country Meadows Homeowners Association, which is located immediately adjacent to the site proposed for the Apple's Way Development. Our Neighborhood Association has been in discussions with the property owners regarding potential development of this area for the past several years. A number of projects have been submitted for consideration over this time period and we have generally been opposed to them due to the commercialization.

The latest proposal which is currently being reviewed has included a number of conceptual ideas which we feel would be of benefit to our neighborhood. These include: (1) the placement of a traffic light on Highway 2 which would allow us to gain westbound access in a safer fashion (2) Low density housing adjacent to the homes currently existing on 66th Street (3) a gate to prevent an increase in traffic flow through our neighborhood (4) design standards and covenants which would be complimentary to those we currently have in Country Meadows and (5) preservation of the trees and land topography which will help shield this neighborhood from the commercial portion.

While we have been opposed to other projects presented in the past, at this time we remain neutral on this proposed development and will continue to work with the developers and the city planners in trying to develop this area in a fashion which will be acceptable to all parties.

Sincerely,

Royce A. Mueller, President
Country Meadows Homeowners Association
April 11, 2005



"Steve Clymer"
<sclymer@bvh.com>
05/10/2005 06:03 PM

To <plan@lincoln.ne.gov>
cc "Clymer, Jolleen" <Jolleen.Clymer@YMCA.NET>
bcc
Subject APPLES WAY PLAN FOR 63RD & HIGHWAY 2

As original homeowners of Country Meadows, we have participated in 12 years of public and association debate on a variety of commercial developments on the "Shopko / Apples Way" property at 63rd and Highway 2. Our primary objective has always been to stay open to possibilities that would protect our neighborhood, yet recognize the fact that we do not own the Highway 2 property, nor do we have the right to tell developers what they can and can not do with their property.

After nearly two years of dialogue and negotiations with the current developer, we believe the best compromise may be before you and Country Meadows with the current proposal. Our opinion is that this mixed land use of commercial and residential provides a better solution for our neighborhood than the density of residential called for in the Comprehensive Plan. Repeatedly confronting this issue has begun to create dissention in the neighborhood as it is a very emotional issue for a few neighbors. As a result we are no longer able to have open dialogue and reach a consensus on the neighborhood's position. On this issue, a recent vote indicated that Country Meadows is split almost 50/50 and it's apparent the Planning Commission will not likely see a strong majority opposed or in support of any project proposal for this property; neither now or in the near future .

As with all new projects, there are advantages and disadvantages. With the current proposal, the developer has negotiated with Country Meadows and clearly has shown a commitment on the part of the developer to meet the neighborhood halfway. In fact, one of the developers lives in Country Meadows. From our vantage point, we believe the sooner a decision on the land use is made, the sooner the neighborhoods will move on and adapt to the changes.

We would like the Commissioners to know that we feel the developer has made a good faith effort to reach a reasonable compromise to meet the many demands of Country Meadows homeowners. We view the creation of a traffic signal at 63rd and Hwy. 2 as an asset to our neighborhood to access Highway 2. Currently, as Highway 2 gets busier and busier, it is becoming increasingly more dangerous to get in and out of our neighborhood. City Traffic indicated to our association last week that this highway is slated to become six lane before 2025; a traffic light out

of this large area of population is inevitable. We also feel this project would likely result in less traffic through our neighborhood than a residential development with up to 250 homes as Mr. Krout said was possible.

Although it may be risky to say we openly support the proposal, we do feel this project, with one half acre residential lots, provides a good transition to our neighborhood, more open space, and provides the community with much increased economic development with the commercial portion located at the farthest end from Country Meadows.

Jolleen & Steve Clymer
6619 S. 66th Street
Lincoln, NE
(402) 423-4149

**Stephen Clymer, AIA, NCARB . Bahr VermeerHaecker Architects . Lincoln, Nebraska . 402-475-4551
. 402-475-0226 (F)**



"Schulz, Jim"
<jschulz@midfin.com>
05/10/2005 07:34 PM

To <plan@lincoln.ne.gov>
cc <kathyaschulz@hotmail.com>, "Schulz, Jim"
<jschulz@midfin.com>
bcc

Subject Highway 2/Apple's Way Development

My name is Jim Schulz and my wife, Kathy, and I have lived at 6601 South 66th St in Country Meadows since 1989. Our home is on the western edge of the neighborhood and is the lot to the immediate south of Outlot F. We are definitely in favor of the development before you at the Wed, May 11th Planning Commission for a number of reasons as follows:

1. The proposed mix of commercial and residential use seems to make the most sense of all the different plans we have seen over the years. 100% commercial use would be the worst option (ShopKo as proposed years ago) and 100% residential would not seem to be in the best interests of anyone with almost certain removal of existing hills, trees and ponds.
2. The proposal would probably result in the installation of a traffic light at the entrance to the development. This will also allow for the installation of a right turn lane into Country Meadows for eastbound traffic. Currently, with no right turn lane, slowing down and turning into our neighborhood can at times be dangerous. A traffic signal a few blocks to the west of Country Meadows with the additional right turn lane into the neighborhood should reduce this dangerous situation dramatically.
3. Definitive use of a large area that has been up for debate for many years. The proposed plan makes it very clear what will be developed in the area with binding agreements available to Country Meadows from the developers. One of our biggest concerns over the years has been what will eventually be done with this property. This proposal identifies the use very specifically with the developers willingness to enter into binding use agreements.
4. Outlot F elimination. The developer has indicated to me personally and to the association in general terms a willingness to eliminate Outlot F from any future connection to the property and would be willing to include whatever language or amendments that might be necessary to do so. One of our personal concerns about our home is the potential for some sort of connecting street to be right beside us through Outlot F. Elimination of the Outlot would not only alleviate our concerns but also neighborhood concerns of increased traffic that would come with such a connection. The Planning Dept has also indicated that they would support this amendment.
5. Highest and best use. Given all the factors involved, this seems like the best option of all. Obviously, we would like to see the land stay exactly as it is with no further development. That is not going to happen and 250+homes on the site do not fit the area. The proposed development is the one alternative that we should all support and move on.
6. Developer cooperation. Contrary to information you may hear from others, we feel the developer has worked very hard to identify our issues and offer solutions. The Association has asked for a number of design changes, assurances and financial commitments and they have been responsive to our requests. When this development is complete, Country Meadows will have new neighbors that will be good neighbors in no small part due to the discussions we all have had.

You will hear testimony from individuals opposing this development but you probably will not hear from them their ideas for options. Many merely want nothing at all to ever happen and that is just not reality. I

will be out of town on the afternoon of the hearing so I will not be there in person. I did however want to be sure you had a point of view from someone who is very close to the development, who lives next to Outlot F and who has lived there for over 15 years and seen the other proposals and heard the complaints. We have an opportunity to support a project that will be good for my home, good for my neighborhood and good for Lincoln. Please vote to approve this plan.

Jim & Kathy Schulz

6601 South 66th St

423 1846

SUPPORT

COMP PLAN AMENDMENT NO. 04010
CHANGE OF ZONE NO. 05026

InterLinc: Feedback

Name: Thomas Shotkoski
Addr: 6431 South 66th
Location: Lincoln, NE 68516
Phone: 402-423-1680
Fax:
Email: jjshot1@aol.com

Comments:

We are in favor of the plan proposed by Bennie McComb regarding the development on the south side of Highway 2 between Old Cheney and 66th Street.

Thomas & Jacque Shotkoski
6431 South 66th
Lincoln, NE

The Lowdown on Lowe's

We disagree with the recent *Journal Star* editorial, "Lowe's plan should get friendly look." The editorial contends that a Lowe's home improvement center built near 66th and Highway 2 would boost economic development, provide convenient comparison shopping in a corridor of home improvement stores, and do so with minimal traffic...wrong, wrong, wrong.

Lowe's adds nothing unique to an area already saturated with places to buy a toilet. Who needs it? Just down the road stand Home Depot, Menards, Tractor Supply Company, and Wal-Mart. Adding Lowe's does not pump more money into the economic system; it simply drains it from a nearby store. Homeowners still buy just one toilet, and Peter is robbed to pay Paul. Remember how Pay Less Cashways and Sutherlands were once the Highway 2 home store kings?

Do we really want shoppers flitting from store to store comparing prices on a box of galvanized nails? There are heavy costs associated with the Lowe's plan. Foremost is traffic. According to traffic studies, traffic on Highway 2 will nearly double from 14,000 cars per day to 26,000 cars per day. That volume of traffic and another stoplight will snarl traffic along one of Lincoln's main east-west arterials. The Planning Department is against this project because Highway 2 simply cannot handle the additional traffic. Moreover, substantial traffic will spill into the adjacent Country Meadows neighborhood. Its rural roads will suddenly carry 1200 more cars a day.

Another cost is diminishing one of Lincoln's premiere entryways and Capitol View Corridors. City leaders point to North 27th Street, Cornhusker Highway, and West O Street as city entryways marred by poor planning and strip malls. We should not let Highway 2 go down this road. Former Mayor Don Wesley's recent promise to block commercial development here is fresh in our minds. And, the ink is still drying on the Sub-Area Plan endorsed by city officials just two years ago ensuring no commercial development in this area through 2025. City leaders should honor this promise and protect this plan.

The developers' plan to squeeze the big Lowe's box in a residential area is flawed for another reason. The plan calls for 32 upscale homes to be built abutting the Lowe's site. Who is going to buy these homes—people who have to have a crescent wrench NOW? When the store is built and the residential property does not sell, won't the developers be clamoring for more commercial development on their site? There is a fresh history of developers not following through on their agreements right down the road. The Home Depot developers promised that there would be no 24-hour businesses when they sought city approval, but they stood before the City Council just two years later trying to amend that promise.

Developers have tried to force commercial development at the Highway 2 and 66th Street site for 12 years. And, for 12 years, neighbors and city leaders have said no. Former

planning commissioner Greg Schwinn said it best, "Commercial development on this

spot is like trying to stick a square peg in a round hole."

Let's face it, the only one who really benefits from approval of this project is the developer who bought a tract of land zoned agricultural speculating that someday people will grow tired of fighting commercial proposals or will for some reason believe that Lincoln must have a glut of big box home improvement stores in a residential area despite increased traffic, broken promises, and the blatant misuse of land.

Kenneth and Christine Kiewra

City County Planning Commission
555 South 10th St.
Suite 213
Lincoln, NE 68508

RE: Opposition of Zoning Change #04010-05026

My name is Alice Barger. Our family lives at 6800 Almira Lane. We have lived here for seven years. We are opposed to the zoning change.

We are concerned that the traffic will increase greatly on our main outlet which is 66th street. The island on 70th St. south of highway 2 has required most of us to exit onto Hwy 2 from 66th. This is already a problem turning left with the higher traffic caused by Wal-Mart, Home Depot, etc. on Hwy 2. The addition of Loues would add to this problem.

Thank you for your consideration in this
matter.

Alice Barger
6800 Almira Lane
Lincoln, NE 68516

Thank you for the opportunity to address an issue that will have a long term impact on my neighborhood. As residents living within the proposed zone changes, my husband Bob and I strongly recommend denial of the South East Lincoln/Highway 2 sub area plan of commercial development. The change of zone no. 05026, Apples Way Planned Unit development is definitely not what the Comprehensive Plan intends.

We were given Mayor Wesley's position in a letter personally addressed to us _____. He took a very public stance of opposition to further retail strip mall development between 56th and 84th streets along the highway. As the community continues to grow to the southeast, we must have a blueprint for developing Highway 2 that allows for development but does not create a strip mall environment. The sub area plan provides that opportunity and the protection that we desire.

The proposed zoning changes will not meet with our existing two density residential areas. We are in a 2-4 acre (per residence) plot of homes built 40 years ago. We appreciate and value the green space that we care for in our neighborhood.

As stated so often, you realize the impact of traffic on Highway 2. Trucks and cars pass through the intersections at 50-70 miles per hour. We are all aware of the numerous accidents that have occurred including a fatality only a few years ago.

I want to focus your attention for a few minutes on the Comprehensive Plan Amendment, #04010.

I want to read from the Conclusion

QUOTE: "Highway 2 will be at capacity in the future, even assuming that the South Beltway is open and a significant amount of through traffic uses the beltway. The traffic modeling done in 1993 and ever since that time have reinforced that additional commercial development near the intersection of Ole Cheney Road, S. 56th and Highway 3 will have a negative impact. One of the main principles of the Southeast Lincoln /Highway 2 Sub area Plan is to have "efficient use of the transportation network: land use decisions must consider the impacts on the transportation network." The traffic study submitted shows that additional improvements in Highway 2

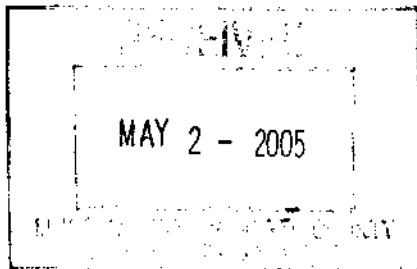
will be required to support this development. These improvements will not increase the efficiency of the road network in the area, but will in fact contribute to increased delays and congestion in an area already near capacity..."

From page 1 of the Amendment, Comprehensive Plan Implications:

QUOTE: "Another guiding principle of the subarea plan was to respect the character of the existing low density residential areas. This property was designated for urban residential uses, though, that did not mean the entire site would be appropriate for dense urban uses. The City approved R-1 Residential zoning on a small parcel adjacent to Country Meadows as an appropriate land use. The northwest corner of this site is designated as a potential site for "Special Residential", which the Plan states includes "uses such as churches, domiciliary care facilities, retirement apartments, child care facilities, townhomes, or other uses permitted by special permit..."

These agreements communicate an understanding between our city government and the people they represent. To modify or change past discussions certainly compromises trust in our city planners. Again, we are asking that you honor your predecessor's work and vote against this proposed change.

Kathleen J. Bitterman



April 28, 2005

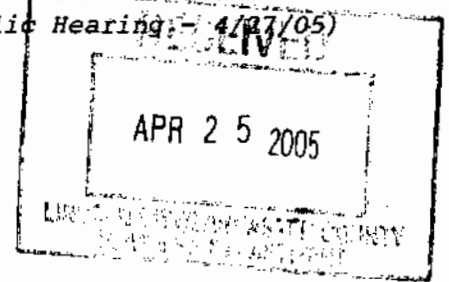
To: Lincoln Planning Commission

When people build a home in an area zoned residential they believe this to be a residential neighborhood forever. A trust with the city & all developers. Highway 2 from 70th west to 63rd is a beautiful corridor into the city. It is different from north 27th & from Cornhusker Highways.

Lincoln could use a Loves, but not on this lovely stretch of green. Not on this parkway.

Be tough - JUST say NO to developing this area commercially! Do not give in to "big-box" pressure — please.

Nancy Calver



City County Planning Commission
555 South 10th St.
Suite 213
Lincoln, Ne. 68508

Re: Opposition of Zoning Change # 04010-05026

We are opposed to the Zoning Change. We live at 6701 Almira Lane and have lived there for 37 years. In the last 5 years we have had an island placed on 70th St, south of Highway 2. This island runs from Highway 2 to Pine Lake Road with one opening to get to Home Depot. This has caused most of us to turn to 66th St to go north or west to Lincoln.

This higher density zoning will dump more traffic in front of our main outlet. The developer seems unwilling to develop at the same density as we live. They knew the outlet problem at the time they purchased the site. Please do not cater to the greed for more money that is occurring here.

Don & Mary Kuhn
6701 Almira Lane
Lincoln, Nebr. 68516

Don Kuhn
Mary Kuhn

APR 27 2005

To: Planning Commission Members
From: Kenneth A. Kiewra
Re: Hearing on Apples Way
Date: April 27, 2005

My name is Kenneth Kiewra. I have been a professor of educational psychology at UNL since 1986. I have been a resident of Country Meadows neighborhood for 12 years. I am writing about a developer's proposal for commercial development on the Apples Way property along Highway 2 between 56th and 66th Streets.

I am strongly against this proposal for the following three reasons.

Promise and Plan

When the Home Depot shopping center was built despite overwhelming opposition by area neighborhoods, Mayor Don Weseley addressed the neighborhoods and media and made a promise. He promised that there would be no further commercial development between 56th and 66th Streets along Highway 2.

Mayor Weseley was then instrumental in working with neighborhoods, city planners, and the council to draw up and approve a sub-area plan that ensured his promise that there would be no further commercial development in that area.

Our city leaders today must honor this promise and protect this plan. It is wrong to violate an approved plan that city leaders just a few years ago believed was in the best long-term interest of the city.

Expert Analysis and Recommendation

The planning staff, as you know, has considered the developer's latest proposal for commercial development and has rejected it. Their expert analysis led to the conclusion that commercial development is wrong for this location. The planning staff has reached this same conclusion for 12 years. City leaders should continue to support the recommendation of planning experts.

Unprofessional Means

The developer, Mr. McCombs, has, in my opinion, used unprofessional means to try and develop Apples Way commercially. First, he has tried to wear down neighbors and city leaders by repeatedly proposing commercial development on this location. Repeated rejections have not deterred him. He keeps making commercial proposals hoping that eventually neighbors will stop caring and leaders will relent. He told me several years ago that homeowners can only fight commercial development so long before they get tired and give up.

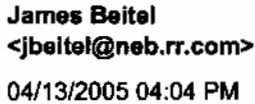
Second, Mr. McCombs has tried to coerce our neighborhood into supporting his commercial development plans. Several times he has threatened to develop the land with higher commercial density if we did not accept his original plan. He used this strong-arm tactic again this time telling neighbors he would build high density housing if we do not accept the proposed plan for a mix of residential and large scale commercial. This threat has a few neighbors thinking that large scale commercial development on the far portion of the land is a necessary evil.

Please tell Mr. McCombs, "no commercial development now or in the future."

APR 27 2005

0085

ITEM NO. 4.1a&b: COMP PLAN AMENDMENT 04010
CHANGE OF ZONE NO. 05026
(p.147 and 159 - Cont'd Public Hearing - 4/27/0



0386

OPPOSITION

ITEM NO. 4.2a&b: COMP PLAN AMENDMENT 04010
CHANGE OF ZONE NO. 05026
(p.147&159 -cont'd public hearing - 5/11/05)



Jerryjudybryant@aol.com
05/10/2005 10:27 PM

To plan@lincoln.ne.gov
cc
bcc
Subject Highway 2

I wish to express my concerns about the recommended change in zoning at 62 to 66th & Highway 2. Traffic problems already being experienced in this area. I have to believe the daily volume exceeds safety issues from 56th to the Walmart Area. If this area is to receive more development, lets build the traffic pattern that will handle it first instead of development then build the streets. I have to believe you will agree. Also how many of these types of stores are needed in this area. Build it in your neighborhood not mine. I live on the northside of Highway 2 across from this area. I have 600 feet on highway 2. The last thing we need is another stop light so traffic will have to stop and start up. The bank and Leows(spelling) need to realize what they are doing. If you approve this, just remember your decision each time we have to pickup bodies from car wrecks indirectly due to poor traffice patterns.

Also, whoever allowed Tractor Supply to build with the current access was asleep on the job. It is just a matter of time before some leaving Tractor Supply and cross one lane to get in the lane into Lincoln will be hit and killed.

Wake up. Do not cave into the bank and "big box" stores. Look at K-Mart location.
Jerry Bryant
6101 Frontier Rd
Lincoln, NE 68516
402 -421-1454

OPPOSITION

ITEM NO. 4.2a&b: COMP PLAN AMENDMENT 04010
CHANGE OF ZONE NO. 05026
(p.147&159 - Cont'd Public Hearing - 5/11/05)



"jhynes"
<jhynes@neb.rr.com>
05/10/2005 10:29 PM

To <plan@lincoln.ne.gov>
cc
bcc
Subject Lowe's Proposal

Planning Commission Members:

I live in the Sheldon Heights area just north of Hwy 2 and am adamantly opposed to the Lowe's proposal. I can also say that most if not all of my neighbors share the same opinion.

Multiple parties have looked at this or similar proposals and recommended against these projects. The Comprehensive Plan does not include it or plan for it – so I have to ask the obvious question of why does it keep coming up. Please follow the plan, not the whims of the latest developer's proposal. This is also an excellent area for residential development.

A project such as this would only create severe traffic congestion and safety issues and should simply be turned down.

Thank you,

Jerry J. Hynes

OPPOSITION

ITEM NO. 4.2a&b: COMP PLAN AMENDMENT 04010
CHANGE OF ZONE NO. 05026
(p.147&159 - Cont'd Public Hearing - 5/11/05)



"Arthur I. Zygielbaum"
<alz@ctwsoft.com>
05/11/2005 01:28 AM

To kmorgan@ci.lincoln.ne.us
cc mkrou@lincoln.ne.gov

Subject Apple's Way Planned Unit Development

Comments for the Lincoln Planning Commission Meeting May 11, 2005

My name is Art Zygielbaum. I reside at 6601 Pinecrest Drive in the Sheldon Heights community. I am writing in opposition to the proposed Apple's Way Planned Unit Development at approximately Highway 2 and 62nd Street. I am sorry that I will be on travel when this issue comes before the Planning Commission. Please accept this statement in lieu of a personal appearance.

As I understand it, the proposal includes a major home supply center and a full turn intersection including stop lights. This new intersection would serve both the new development and a planned expansion to the bank property at the corner of Old Cheney and Highway 2.

My opposition has three elements. First, as I have maintained in public statements and during my work on the Comprehensive Plan Committee, it is incumbent upon the City to attempt to maintain the communities that residents expected and understood when they bought property and established residence. Although growth is desirable and change inevitable, both must be accommodated with minimal impact on existing communities. The communities of Sheldon Heights, South Fork, and Country Meadows were established in a rural/urban setting without strip-malls, major shopping, etc. The proposed development would cause increased traffic, noise, and congestion. It would certainly impact the quality of life. (While this was said of the Home Depot development, that site was sufficiently remote from adjacent residences to minimize the impact on quality of life. Home Depot did not encumber the city with the cost of installation and maintenance of new traffic signals.)

Second, I strongly agree with the City Planning Department. The proposed additional signals would create unnecessary congestion on an already dangerous Highway 2. Being a daily witness to trucks running the red light at Old Cheney and Highway 2, I believe that the additional stop light would increase the likelihood of major accidents. For safety reasons alone, the use of the property to the south of Highway 2 should be restricted to uses

that will cause minimal traffic flow changes. I believe this would best meet the intent of the Comprehensive Plan.

Third, I am very concerned about the possibility of yet another empty building in the area. The old K-Mart store has now been vacant for quite a while. The proposed new home supply store will be competing with Menards and Home Depot. Having three home supply stores within a short distance seems to violate common sense. If the new venture fails, one of the more attractive entrances to Lincoln, Highway 2, could be blighted by another empty building surrounded by unmaintained grounds and parking lots.

Therefore, to maintain local communities as close to their original setting as possible, to avoid a potentially hazardous traffic condition, and to avoid the potential blight caused by a vacant major structure, I must oppose the proposed modification to the Comprehensive Plan and the intended use of the subject property.

Sincerely,

Arthur I. Zygielbaum

OPPOSITION

ITEM NO. 4.2a&b: COMP PLAN AMENDMENT 04010
CHANGE OF ZONE 05026
(p.147&159 - Cont'd Public Hearing - 5/11/05)



Andrzej Rajca
<arajca1@unl.edu>
05/11/2005 09:07 AM

To plan@lincoln.ne.gov
cc
bcc
Subject HWY2/Apple Way

DATE: May 11, 2005, 8:45 AM
FROM: Andrzej and Suchada Rajca, 6609 So. 66th St., Lincoln, NE
TO: Planning Commission, Lincoln, NE
RE: Public Hearing on May 11, 2005 (1 PM), concerning HWY 2 & Apple Way
Commercial Development Plan

We are writing you to express our strong opposition to the HWY 2 & Apple Way Commercial Development Plan. We strongly oppose creation of strip malls at the still attractive entryway to our city via HWY 2. The city has already committed in its plan to non-commercial development on this section of HWY 2 and to maintaining HWY 2 as an efficient through-way for the SE part of Lincoln. To depart from its own plan in order to just add another hardware store (with its rather mediocre jobs, plus huge traffic congestion on HWY 2) would be a rather poor planning, leading to unpredictability and deterioration of property values for residential homeowners. We already have a close-by eye sore of "commercial development" (former K-Mart) at HWY 2 and So. 56 th St., not to mention a significant section of "O" Street.

Andrzej and Suchada Rajca
6609 South 66th Street
Lincoln, NE 68516

Andrzej Rajca
Professor of Chemistry
Department of Chemistry
University of Nebraska
Lincoln, Nebraska 68588-0304

Phone: 402-472-9196
Fax: 402-472-9402
E-mail: arajca1@unl.edu
<http://www.chem.unl.edu/rajca/rajcahome.html>